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### **Ukraine adopts legislative mechanisms for the introduction of sanctions against Russia**

On 11 May, 2014, the Verkhovna Rada of Ukraine approved in principle the draft Law of Ukraine "On Sanctions" elaborated by the government. The purpose of the draft law is to protect national interests, national security, sovereignty and the territorial integrity of Ukraine, its economic independence, and to prevent violations or restore the violated rights, freedoms and legitimate interests of Ukrainian citizens, state and society. It is expected that soon the Verkhovna Rada of Ukraine will vote on this Law at its second reading and that the president will sign it.

According to the Government's proposals, **sanctions may be applied to:**

1. A foreign state;
2. A foreign entity or a private person;
3. Ukrainian citizens and entities created under Ukrainian legislation;
4. Other subjects.

Moreover, it should be pointed out that the application of the sanctions does not eliminate the use of other mechanisms, integrated to complete the proposed defence mechanism of Ukraine. Prior to that, there was no integrated mechanism of sanctions in Ukraine defined by law. Practically, the sanctions were imposed on individual foreign companies and were based on decisions of regulatory authorities within their powers. For example, during the trade war between Ukraine and Russia after numerous restrictions imposed by Russia in April 2014, the State Inspection Agency for Consumer Rights in Ukraine banned sale of 18 types of products (chocolate, fish and cheese products) produced by 7 Russian companies. The reason for the ban was discrepancy<sup>1</sup> with the law – in particular, violations of labelling standards.

#### **Reasons for introducing the sanctions:**

1. Actions of a foreign state, a foreign legal entity of natural person, other subjects, that create threats to national interests, security, sovereignty and territorial integrity, economic independence, infringe on the rights and liberties of a person and the interests of society and the state resulting in occupation of the territory, expropriation or restriction of property rights, problem of property losses, hampering of the sustainable economic development and the full observation of the rights of Ukrainian citizens;
2. The UN General Assembly and Security Council resolutions;
3. Decisions and regulations of the Council of the EU;
4. Violations of the Universal Declaration of Human Rights, the UN Charter.

The Government proposes the **introduction of 28 types of sanctions**, which can be divided into 5 categories:

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<sup>1</sup> clause 38 of the Law of Ukraine «On safety and quality of food products», clauses 15, 19 of the Law of Ukraine «On Consumer Rights Protection and provisions of the Procedure on the marking of food products. The procedure is approved by the Order of the Ukraine State Customer Standard 28 Oct 2010 No286 (registered in the ministry of Justice on 11th February 2011 No 183/18921).

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*I) Restrictions connected to actions within the territory of Ukraine:*

- 1) Blocking of assets;
- 2) Halting fulfilment of the economic and financial obligations;
- 3) Restricting trade operations;
- 4) Prohibiting participation in privatisation or the lending of state property;
- 5) Restricting or halting transit of recourses, flights and shipments within the territory of Ukraine;
- 6) Cancelling or halting certificates of authorisation and other permits (including special permissions for the use of mineral resources);
- 7) A ban on providing Government procurement with legal entities - foreign residents;
- 8) Introducing additional measures of ecological, sanitary, phytosanitary and veterinary control;
- 9) A ban on transferring technologies and intellectual property rights;
- 10) Banning or restricting sea vessels entering the territorial sea or ports of Ukraine; and for airborne vehicles – to enter the aerial domain of Ukraine, or land within the territory of Ukraine;

*II) Banking system restrictions:*

- 11) Prevention of the capital's escape from Ukraine;
- 12) the National Bank should be prohibited from issuing permissions and licences for investing abroad, as well as placing currency assets on the accounts and deposits abroad;
- 13) the National Bank should terminate the issuance of permissions and licences to import into Ukraine from a foreign country or to export currency assets from Ukraine; withdrawal limits should be introduced for the bank cards of foreign issuers;
- 14) the National Bank should be prohibited from registering an international payment system, if its payment organisation is foreign;
- 15) Prohibition on the increase of the authorised capital of commercial companies, enterprises, banks when a representative of a foreign state owns more than 10% of the share capital or has an effect on the management of a legal entity or its activities;

*III) Restrictions related to international activities:*

- 16) Termination of international treaties that were approved and claimed to be obligatory;
- 17) Termination of trade agreements, joint projects and industrial applications in certain areas, particularly in the area of security and defence;
- 18) Refusal to grant visas to residents and termination of visas for the resident aliens, using other prohibitions of entry into the territory of Ukraine;
- 19) Cancellation of official visits, meetings, negotiations on issues relating to contracts or agreements;
- 20) Call back of state awards of Ukraine and other forms of distinction;

*IV) Other restrictions:*

- 21) Termination of cultural exchanges, scientific cooperation, education and sports events, and entertainment programmes with foreign countries and foreign legal entities;
- 22) Prohibition of political parties, movements and other civil society associations and foundations;
- 23) Other sanctions that are consistent with principles of their use hereof.

**Recommendations to use**, as well as to cancel and to amend **the sanctions should be formally proposed** to the National Security and Defence Council **by**:

- 1) The Verkhovna Rada;
- 2) President of Ukraine;
- 3) Cabinet of Ministers of Ukraine;
- 4) National Bank of Ukraine;
- 5) The Security Service of Ukraine.

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Ukraine's National Security and Defence Council are to make a decision, which, according to Ukrainian legislation, is brought into effect by decree of the President of Ukraine. This decision is mandatory to fulfil. The decision specifies the period of application of sanctions (unless the sanctions result in the suspension of individual rights and are permanent).

In the Government's view, the adoption of this law will establish a mechanism to provide an immediate and effective response to existing and potential threats to the national interests and national security of Ukraine, including hostile action, armed attacks from other states or non-state entities, bringing harm to life and health, hostage-taking, expropriation of property in the territory of Ukraine, causing property losses and creating obstacles to sustainable economic development and the full observation of Ukraine citizens' rights and freedoms.

It is expected that the adoption of the draft law in general will take place in September and October, 2014, the new parliament of Ukraine will work, according to the expectations of experts and the public statements of the Prime Minister of Ukraine A.Yatseniuk in the "Restore Ukraine: the Action Plan".

*The Government proposed some amendments to the draft law, connected with the restriction of the media:*

- 1) the restriction or suspension of postal services;*
- 2) the prohibition or restriction of the retransmission of television and radio channels;*
- 3) prohibition of the use of radio frequency resources of Ukraine;*
- 4) the restriction or termination of the media (including on the Internet);*
- 5) the restriction or prohibition of the production or distribution of printed matter and other materials;*
- 6) The restriction or termination of the telecommunications services and usage of public telecommunications networks.*

*However, under pressure from international human rights organisations and media, the Government introduced changes to the draft law whilst rejecting the amendments.*

**For more detailed information, please contact:**

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