



AUSTRIA

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IMPLEMENTATION AND LAW

The following acts and ordinances are the key planks of Austria's sanctions framework:

Financial sanctions

- a. the Sanctions Act (*Bundesgesetz über die Durchführung internationaler Sanktionsmaßnahmen*), Federal Law Gazette I 36/2010, as amended by Federal Law Gazette I 37/2018, implements rules and regulations on financial sanctions;
- b. the Ordinance of the Austrian National Bank DL 2/2002, as amended by DL 1/2009 on the implementation of financial sanctions;

- c. the Law on Foreign Exchange (*Devisengesetz 2004*), Federal Law Gazette I 123/20036, as amended by Federal Law Gazette I 37/2018 ('DevisenG');

War materiel

- d. the War Materiel Act (*Bundesgesetz vom 18. Oktober 1977 über die Ein-, Aus- und Durchfuhr von Kriegsmaterial*), Federal Law Gazette I 540/1977 as amended by Federal Law Gazette I 104/2019 ('KMG'), implements rules and regulations on the export of war materiel;

Other listed goods (dual-use-goods, defence-related goods, chemicals etc)

- e. the Foreign Trade Act (*Außenwirtschaftsgesetz 2011 – 'AußWG 2011'*) Federal Law Gazette I 26/2011 as amended by Federal Law Gazette I 104/2019 ('AußWG'), implements EU and UN sanctions in general;
- f. the Third Ordinance to the Foreign Trade Act (*Dritte Außenwirtschaftsverordnung 2014 – '3. AußWV 2014'*) Federal Law Gazette II 6/2015 as amended by Federal Law Gazette II 127/2017 ('3. AußWVO'), further defines rules and regulations regarding arms embargoes.

According to Section 4 AußWG and Section 3 KMG, authorisation for the export of listed goods may not be granted if such authorisation contradicts EU law or any international law binding on Austria. Consequently, any binding EU and UN sanctions are immediately effective in Austrian law.

In cases where the transposition of international law (for example, resolutions of the UN Security Council) into Austrian law may be required, the Minister of Digitalisation and Economy ('BMDW') is empowered to enact a relevant law. The BMDW is empowered to implement arms embargoes.

With regard to financial sanctions, the Austrian National Bank has authority to impose an ordinance under which certain funds may be frozen. Likewise, the Bank is empowered to order prohibitions on making available funds to certain persons or institutions, directly or indirectly. The Austrian National Bank derives its authority from Ordinance DL 2/002 as amended by DL 1/2009.

The federal government may enact ordinances for the seizure of means of transport and transported



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goods, if doing so would be required so as to comply with international law. To date, however, it has yet to do so.

POWERS AND PROVISIONS

Power to designate a sanctions target

In addition to EU sanctions, Austria may impose its own financial sanctions in order to

1. ensure the security of the Republic of Austria;
2. prevent any disturbance to the peaceful coexistence of people;
3. reduce economic relationships of the Republic of Austria with any country affected by armed conflicts or where severe and continued violations of human rights have been reported;
4. prevent severe disturbances to Austria's international relations;
5. fulfil binding measures of international law or measures under the Common Foreign and Security Policy ("CFSP") of the European Union.

The Austrian National Bank may enact restrictions by way of decisions or ordinances on, respectively, the movement of capital and payments. Such measures may take the form of prohibitions or requirements for authorisation of certain transactions.

The Austrian National Bank may only enact ordinances with the approval of the federal government. Respective sanctions may be found in Ordinance DL 2/002 as amended by DL 1/2009.

KEY AGENCIES

Requests for authorisations, or for exceptions to financial sanctions, should be addressed to the Austrian National Bank. Contact:

Oesterreichische Nationalbank
Otto-Wagner-Platz 3
A-1090 Wien

Tel.: + 43 1 404 20-0
Fax + 43 1 404 20-6698
E-mail: posteingang@oenb.at

Authorisations under the KMG are issued by the Minister of Internal Affairs together with the Minister

of Europe, Integration and External Affairs after consultation with the Minister of Defence. Contact:

Bundesministerium für Inneres

Herrngasse 7
A-1010 Wien

Tel.: +43 1 53 126 0
Fax +43 1 53 126-108613
Email: post@bmi.gv.at

Requests for authorisation, or for an exception to a prohibition of exports, should be addressed to the Minister of Digitalisation and Economy. Contact:

Bundesministerium für Digitalisierung und Wirtschaftsstandort

Herrngasse 7
A-1010 Wien

Tel.: +43 1 53 126 0
Fax: +43 1 53 126-108613
E-mail: post@bmi.gv.at; POST.III2_19@bmdw.gv.at

Authorisation requests can be made through the online tool, PAWA, at www.pawa.bmdw.gv.at/export/Forms/Login.aspx.

ENFORCEMENT AND PENALTIES

Penalties for sanctions violations are provided for by several pieces of legislation. They can consist of monetary (administrative) penalties and/or imprisonment.

With regard to financial sanctions, sections 11 to 15 of the Sanctions Act provide for both criminal and administrative fines. A person who conducts any financial transaction in excess of €100,000, which is in violation of imposed sanctions, may be punished with imprisonment of up to one year or with a monetary fine. Where the threshold of €100,000 is not exceeded, administrative fines of up to €50,000 may be imposed.

Further sanctions are to be found in sections 8 to 12 of the DevisenG. If a prohibited financial transaction exceeds €75,000, imprisonment of up to one year may be imposed on the perpetrator. Transactions which do not exceed the threshold may be sanctioned with administrative fines of up to €50,000.

With regard to war materiel, criminal and administrative sanctions are to be found in sections 7 and 8 of the KMG. If war materiel is exported without a licence, or an export authorisation has not been granted, the perpetrator may face a prison sentence of up to three years. If the crime has been committed repeatedly, or if it was committed using false information, documents or evidence, the term of imprisonment increases to five years.

Where a crime has occurred as a result of negligence, less serious penalties apply.

In a case of breach of administrative regulations, or of record and notification obligations, the competent authority may impose fines of up to €40,000. If the breach is the result of a negligent act, the fine shall not exceed €25,000.

The AußWG contains several criminal and administrative penalties in Section 79 et seqq. Violations of regulations concerning third countries are penalised more strictly. Depending on the particular infringement, imprisonment of up to three years is possible. When committed repeatedly, or by using false information, documents or evidence, or on a commercial basis, prison sentences may increase to five years. If the criminal act is related to weapons of mass destruction, imprisonment of up to ten years may be imposed.

OUTREACH

The regulatory authorities publish and make available guidance through a range of methods. For example, the BMDW has published guidance for companies on adopting internal compliance programmes. Furthermore, the BMDW may issue binding decisions on a case-by-case base, if a certain transaction is prohibited, requires a licence, or may be executed without having to apply for a licence. Such binding decisions serve to enable exporters to clarify legal uncertainties.

POLITICAL FACTORS

Austria supports sanctions which are imposed at EU level as well as internationally. Austria has confirmed its support for the principle of the use of smart sanctions – i.e., those that target particular persons or institutions. Official spokespersons have emphasised that such sanctions will be used specifically to target individuals and institutions responsible for, or connected to, breaches of international law or basic human rights, as well as individuals who are part of organised criminal or terrorist networks.

