

The Swiss sanctions regime

Penalties for breaking economic sanctions laws and regulations

Both deliberate and careless violations are considered criminal offenses. Knowingly breaking Swiss sanctions could lead to a fine of up to CHF 540,000 or imprisonment for up to five years. If the breach is due to negligence, the fine could be up to CHF 100,000.

Moreover, failing to collaborate with the supervisory authorities and engaging in other offenses could result in a fine of up to CHF 100,000.

The time limit for prosecuting severe economic sanctions violations is 15 years, while it's seven years for other economic sanctions violations. The time limit for refusing to cooperate with supervisory authorities and other minor offenses is three years.

The SECO is usually the supervisory authority that oversees and acts against economic sanctions violations. If a serious breach occurs, the supervisory authority can request the Office of the Attorney General of Switzerland to start an investigation.

The person responsible for a violation is ultimately accountable. Furthermore, board members, directors, employers, supervisors, or leaders who knowingly or carelessly do not stop a breach committed by a subordinate or employee may also be held responsible. Moreover, the corporation may be held accountable if the violation cannot be attributed to a particular individual because the organization is improperly structured.

Enforcement of criminal law is limited to the national level. Nonetheless, the relevant national supervisory bodies can engage cantonal or communal police and investigating officers from the Federal Customs Administration to assist with inspections, searches, and seizures.

Assets

Confiscation of assets obtained, and money earned through breaching sanctions provisions may occur.

The SECO or other relevant authorities may implement additional actions (such as suspending or withdrawing previously granted authorizations) in response to violations of sanctions laws. Moreover, the thoroughness and regularity of government inspections may escalate.

Furthermore, there may be adverse outcomes for the reputation of companies and individuals implicated in breaching sanctions. These entities could face exclusion from public procurement processes due to violating sanctions, and contracts might contain a termination clause for severe

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breaches of laws, including sanctions laws. Lastly, FINMA, the Swiss financial regulatory authority, could launch enforcement actions against supervised entities and individuals allegedly involved in sanctions violations.

General Information

The Swiss sanctions regime operates under the Federal Act on Implementing International Sanctions, the Embargo Act (EmbA). This framework law grants the Swiss Federal government, specifically the Federal Council, the authority to enforce non-military measures to implement sanctions dictated by the United Nations, the Organisation for Security and Cooperation in Europe (OSCE), or Switzerland's major trading partners, such as the European Union (EU), in support of international law, particularly human rights.

Possible sanctions under the EmbA encompass direct or indirect limitations on transactions involving goods and services and constraints on payment and capital transfers. Furthermore, the EmbA may also regulate the movement of individuals, scientific, technological, and cultural exchanges and institute prohibitions, licensing, reporting obligations, and other restrictions on rights.

Responsible authorities

The State Secretariat for Economic Affairs (SECO) is the primary authority entrusted with implementing and enforcing sanctions. However, other agencies may assume responsibility for specific types of sanctions. For instance, the State Secretariat for Migration handles travel bans, the Federal Office of Civil Aviation oversees air traffic restrictions, and the Federal Customs Administration manages border controls.

The Federal Council enforces sanctions mandated by international bodies such as the United Nations, OSCE, and the EU.

International agreements

Between 1990 and 2002, Switzerland independently participated in non-military sanctions imposed by the United Nations. Following Switzerland's accession as a Member State of the United Nations in 2002, it became obligated to enforce non-military sanctions imposed by the United Nations. When the United Nations establishes a sanctions regime under Chapter VII of its Charter, the Federal Council will issue an ordinance to implement the non-military sanctions imposed by the United Nations. Depending on the circumstances, the process usually takes a few days to several weeks. Currently, Switzerland has enforced all relevant United Nations sanctions.

The Swiss Federal Council has the authority to enforce sanctions decreed by the OSCE, of which Switzerland is a member, and by Switzerland's major trading partners, such as the European Union. Switzerland complies with the sanctions imposed by the OSCE and the EU. It's important to note,

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however, that Switzerland is not obliged by law to enforce EU sanctions and, as a result, has not applied the EU's "thematic" sanctions regulations, for instance, those related to chemical weapons, cyber security, and human rights.

Sanctioned individuals and entities

The SECO is responsible for maintaining and updating the lists of sanctioned individuals and entities. However, the decision to add or remove individuals and entities from a sanctions list is made by the Federal Council. Generally, the sanctions lists are updated based on the corresponding lists issued by the United Nations or, in the case of the sanctions lists related to Russia and Belarus, the EU.

Individuals or organizations can contest their inclusion on a sanctions list. However, government agencies and courts typically deny removal from the list if the individual or entity appears on sanctions lists issued by either the United Nations or the European Union (in the case of sanctions related to Russia and Belarus).

You can locate the lists of sanctioned individuals and entities on the SECO website.:

<https://www.seco.admin.ch/seco/de/>

[home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen.html](https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen.html)

The SECO offers an internet-based tool for locating sanctioned individuals and entities. The search tool, along with a user manual, is available on the website mentioned below.:

[https://](https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/suche_sanktionsadressaten.html)

[www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_](https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/suche_sanktionsadressaten.html)

[Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/ exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/suche_sanktionsadressaten.html](https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/suche_sanktionsadressaten.html)

You can also stay informed about sanctioned individuals and entities by signing up for the newsletter service of the Swiss government and the Swiss Financial Market Supervisory Authority FINMA (FINMA).

Reporting obligations

The sanctions lists have finally been released in the Systematic Compilation of Federal Legislation.

In most cases of Swiss sanctions, people or organizations holding or overseeing assets that belong to individuals or entities facing sanctions or having knowledge about such assets are required to report to the State Secretariat for Economic Affairs (SECO). The report usually needs to include the names of the beneficiaries, along with details and the value of the assets. Furthermore, specific Swiss sanctions may also impose further reporting requirements, such as for certain deposits and oil transactions related to Russia.

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The SECO has released recommendations for establishing an Internal Control Program for Export Controls (ICP) and a summary sheet for the ICP. As per these guidelines, an ICP should encompass the following components:

- Management commitment and policy statement regarding export controls and sanctions
- A clear outline of duties and obligations to ensure adherence to export regulations and sanctions
- Please adhere to the licensing rules, such as adequately classifying the goods, software, and technology that will be exported.
- “know your customer” as well as checks of end-user and end-use
- Training and providing information to involved employees
- internal audits