

EU Wary of Imposing Harsh Sanctions on Russians After Court Setbacks

Several Iranian Companies Successfully Challenged the Penalties

By

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Successful legal challenges against [European Union](#) sanctions over the past year have made the bloc wary of taking aggressive actions against Russian businessmen and companies as it works to contain Moscow's ambitions in Ukraine.

EU leaders meeting in Brussels on Thursday agreed to apply asset freezes and visa bans on 12 more Russian officials, but stopped short of penalizing any powerful oligarchs or companies.

By contrast, the U.S. earlier Thursday slapped sanctions on four of Russia's most influential businessmen and a bank, saying that penalties could apply to anyone who "has acted for or on behalf of, or that has provided material or other support, to a senior Russian government official."

German Chancellor [Angela Merkel](#) said legal concerns were the main reason leaders had avoided targeting people outside Russia's political and military circles.

"We in Europe are bound to having an obvious connection to Crimea-i.e. the offense that is at the base of the sanctions. That's a different legal situation from the U.S.," she told journalists after the meeting.

Concerns over legal challenges to EU sanctions have increased over the past year after the bloc's courts struck down financial sanctions against several individuals and companies.

"The Europeans are terrified of being challenged in court. The Americans aren't so afraid of that," said Bill Browder, an American investor who has been a stern Kremlin critic since his lawyer, Sergei Magnitsky, died in a Russian prison in 2009.

In July, the European Court of Justice, the EU's highest court, said the bloc had to lift an asset freeze and travel ban on Saudi businessman Yassin Qadi.

Mr. Qadi had been included in a United Nations sanctions list shortly after the 9/11 attacks for allegedly financing al Qaeda-a claim that he repeatedly rejected.

The court said the EU didn't provide enough evidence to prove its allegations and had violated Mr. Qadi's right to property, a fair hearing and independent judicial review.

"The same principles that were established in the Qadi case will apply here," said Guy Martin, a partner at London-based law firm Carter Ruck, who represented Mr. Qadi.

In September, another EU court struck down sanctions decisions against seven Iranian banks and shipping companies following a successful challenge by Iran's Bank Mellat earlier in the year.

The court ruled that the EU hadn't provided evidence the entities were tied to Iran's nuclear program or were state-owned. But Brussels has now either appealed the decisions or brought the firms under new sanctions.

A European diplomat involved in crafting the sanctions against Russia said the Qadi ruling, combined with the successful Iran cases, makes it more difficult to bring extensive sanctions against Russians as the court will demand a higher level of proof.

A second diplomat said Germany, Italy, Spain and Finland were among the states that raised legal concerns in EU sanctions talks.

Those states have asked EU institutions to more closely examine legal risks, he added.

The EU has "to draft [Russian sanctions] carefully and keep these decisions in the back of their mind," said Maya Lester, a sanctions lawyer at London firm Brick Court Chambers, who cowrites the "European Sanctions" legal blog.

Over the past year, sanctions lawyers have also opened another front in their fight against penalties and sued individual EU member states for damages for their role in getting them on the bloc's sanctions list.

Until now, individuals and companies had been limited to requesting damages from the institutions that sanctioned them, claims that were generally limited to having their legal costs repaid.

Suits against national governments could bring about much bigger damage claims. Last month, Iran's Bank Mellat, which had successfully fought off EU sanctions, then sued the U.K. Treasury for some \$4 billion in compensation for alleged lost business.

In its claim filed with London's Commercial Court, Bank Mellat argued the U.K. government was liable for damages because it asked the EU to target the bank.

Mr. Martin, the lawyer for Mr. Qadi, said he hasn't been contacted by any Russians worried about being targeted by EU sanctions so far, but wouldn't be surprised if they did eventually.

"I think they may well do," he said.

—Matthew Dalton in Brussels contributed to this article.