



Network for investigation and
prosecution of genocide, crimes
against humanity and war crimes



ADDENDUM
—
PROSECUTION OF
SANCTIONS (RESTRICTIVE MEASURES) VIOLATIONS
IN NATIONAL JURISDICTIONS:
A COMPARATIVE ANALYSIS



THE HAGUE, JANUARY 2022

THE GENOCIDE NETWORK

The 'European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes' (the 'Genocide Network') was established by the Council of the EU in 2002 to ensure close cooperation between national authorities in investigating and prosecuting the crime of genocide, crimes against humanity and war crimes. The Genocide Network facilitates the exchange of information among practitioners, encourages cooperation between national authorities in different Member States, and provides a forum for sharing knowledge and best practices. The Genocide Network is supported in its work through its Secretariat, based at Eurojust in The Hague, the Netherlands.

Eurojust, an EU agency, helps prosecutors and judicial authorities to solve some of Europe's most serious and complex crimes. Eurojust's work enables EU Member States to define common strategies and to build synergies that drive concrete operational results.

This report has been prepared by the Secretariat of the Genocide Network and is meant solely for information purposes.

For further information, please contact:

Genocide Network Secretariat

EUROJUST

E-mail: GenocideNetworkSecretariat@eurojust.europa.eu

Website: www.genocidenetwork.eurojust.europa.eu

This document is an addendum to the report [‘Prosecution of sanctions \(restrictive measures\) violations in national jurisdictions: A comparative analysis’](#) published by the Secretariat of the Genocide Network in December 2021.

The addendum reviews the main findings of the decision issued by the Court of Odense on 14 December 2021 in the Dan-Bunkering case (Denmark).¹

Judgement in the Dan-Bunkering case (Denmark)

The verdict

On 14 December 2021, the Court of Odense imposed fines of DKK 30 and 4 million,² respectively, on the enterprise A/S Dan-Bunkering Ltd. and its parent company Bunker Holding A/S for the violation of EU's Regulation³ imposing sanctions against Syria, including a prohibition on the sale of jet fuel.

A/S Dan-Bunkering Ltd. was convicted of having carried through 33 deals in jet fuel at a total value of DKK 639 million⁴ with two Russian companies which were agents for the Russian navy. In the period from 2015 to 2017, a total of 172,000 tonnes of jet fuel was sold from the enterprise in Middelfart, Denmark. The EU introduced a prohibition on the sale of jet fuel to Syria in 2014.

Bunker Holding A/S was convicted of having aided and abetted negligently in eight of the deals. In addition, the managing director of Bunker Holding A/S was given a suspended sentence of four months' imprisonment for his role in the matter by having negligently aided and abetted in the same eight deals.

The fuel was delivered to tankers in the eastern Mediterranean, and these deliveries began at the time when the Russian air force entered the civil war in Syria. The court found it proved that the fuel was subsequently used to supply Russian aircraft bombing missions from a base near the seaport of Banias.

The court accepted the claim by the State Prosecutor for Serious Economic and International Crime that approximately DKK 15.6 million⁵ should be confiscated from A/S Dan-Bunkering Ltd. – an amount equivalent to A/S Dan-Bunkering Ltd.'s profit from the 33 deals.

Main findings of the Court

A main issue during trial proceedings was whether the deals were covered by EU's sanctions regime against Syria as A/S Dan-Bunkering Ltd. had not delivered the fuel to Syria but merely delivered it to ships owned or managed by Russian enterprises not subject to the EU sanctions. Another subject of debate during the proceedings was that the fuel was used by the Russian and not the Syrian military, as the sanctions against Syria are not directed at other countries' armed forces.

The court found that the wording of the provision set out in Article 7a of the Regulation broadly states actions which are banned and entails, amongst other things, that indirect sale or delivery of jet fuel for use in Syria is prohibited. An interpretation of the wording indicates that the sale or delivery to other

¹ Background on the Dan-Bunkering case can be found in Section 4.4, pp. 19-20 of the report.

² Approximately EUR 4 million and EUR 540,000.

³ Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011, Article 7a.

⁴ Approximately EUR 85 million.

⁵ Approximately EUR 2 million.

enterprises which subsequently transport the jet fuel to Syria, as was the case in this matter, is also covered by the prohibition and subject to criminal liability, provided that the required subjective mens rea existed on the part of the seller/supplier.

Even based on an interpretation of the purpose of Article 7a(1)(a) of the Regulation, the court found that the deals in the case were covered by the prohibition contained in the provision. The purpose of the Regulation and, in that connection, of the prohibition against sale and delivery of jet fuel for use in Syria, is the protection of the Syrian civilian population against atrocities.

Thus, the preamble of the Regulation refers to "the continued brutal repression and violation of human rights by the Government of Syria". In this case, the jet fuel was used in Syria by Russia which had intervened in the civil war to support the Government of Syria. The court concluded that the prohibition in Article 7a(1)(a) applies in such a situation both on the basis of an interpretation of its wording and on the basis of an interpretation of its purpose. This does not entail that the sanction is directed at Russia as a nation, as only Russia's activities in Syria are covered by the prohibition.

War crimes or crimes against humanity were not a subject of these proceedings.

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EUROPEAN NETWORK FOR INVESTIGATION AND PROSECUTION OF GENOCIDE, CRIMES AGAINST HUMANITY AND WAR CRIMES
SECRETARIAT

EUROJUST, JOHAN DE WITLAAN 9, 2517 JR, THE HAGUE, THE NETHERLANDS

EMAIL: GenocideNetworkSecretariat@eurojust.europa.eu

WEBSITE: www.genocidenetwork.eurojust.europa.eu