

The Embargo Act and its ordinances

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The Federal Act of 22 March 2002 on the Implementation of International Sanctions, known as the Embargo Act (Embargogesetz, EmbG, SR 946.231), is a short statute of eighteen articles. Article 1 allows the Confederation to enact compulsory measures in order to implement sanctions that have been ordered by the United Nations, by the Organisation for Security and Co-operation in Europe or by Switzerland's most significant trading partners and which serve to secure compliance with international law, in particular respect for human rights. The reference to the most significant trading partners is the statutory hook for the adoption of EU sanctions. The same provision reserves the right of the Federal Council to take measures to safeguard the interests of the country under Article 184 paragraph 3 of the Federal Constitution. According to paragraph 3, the compulsory measures may directly or indirectly restrict transactions involving goods and services, payment and capital transfers, the movement of persons and scientific, technological and cultural exchange, and they may include prohibitions, licensing and reporting obligations and other restrictions of rights.¹

Article 2 makes the Federal Council the competent body. It enacts the compulsory measures in the form of ordinances and may stipulate exceptions to support humanitarian activities or to safeguard Swiss interests, in particular for the supply of food, medicines and therapeutic products for humanitarian purposes.² This design has two consequences that matter for practitioners. The substance of Swiss sanctions law is found almost entirely in ordinances, which the Federal Council can adopt and amend without parliamentary debate and which usually enter into force within hours of their adoption. The Act itself, by contrast, contains the procedural and criminal framework: a duty of disclosure (Article 3), powers of the supervisory authorities (Article 4), data processing and administrative assistance within Switzerland and abroad (Articles 5 to 8),

criminal provisions (Articles 9 to 13) and rules on jurisdiction and reporting (Articles 14 and 15).

The criminal provisions are graduated. Under Article 9, anyone who wilfully violates a provision of a sanctions ordinance commits a misdemeanour punishable by up to one year of imprisonment or a monetary penalty. In serious cases the maximum is five years. Negligent violations are punishable with a fine of up to CHF 100,000.³ Article 10 treats as contraventions the refusal of information, false statements to the authorities and other violations that do not fall under Article 9. It provides for a fine of up to CHF 100,000 for intentional and CHF 40,000 for negligent conduct.⁴

Article 13 contains a provision that became politically important after 2022. Property and assets that are subject to compulsory measures are forfeited irrespective of the criminal liability of any particular person if their continued lawful use is not guaranteed. Forfeited assets pass to the Confederation under the Federal Act of 19 March 2004 on the Division of Forfeited Assets.⁵ The provision reads like an instrument for confiscating frozen assets, although its scope is far narrower than it appears. Legal commentators have stressed that Article 13 requires a link to a criminal offence and cannot be used to take assets merely because their owner is listed.⁶ Section VII returns to the confiscation debate.

Article 14 designates the Federal Act of 22 March 1974 on Administrative Criminal Law (VStrR) as the applicable procedural law. Offences under the Embargo Act are therefore investigated and judged in the first instance by the administration itself, in practice SECO. At the request of the administrative unit, the Office of the Attorney General of Switzerland (OAG) may open an investigation where the seriousness of the offence justifies it, in which case federal jurisdiction applies.⁷ Each sanctions ordinance repeats and refines this allocation. The Russia ordinance, for example, provides that violations of most of its prohibitions are punishable under Article 9 EmbG, that violations of the reporting duties are punishable under Article 10 EmbG and that SECO prosecutes and judges both categories and may order seizures and forfeitures.⁸

The ordinances follow a common architecture. Each begins with trade measures on goods and technology, continues with financial measures, above all the freezing of funds and economic resources of the persons listed in an annex, and ends with provisions on entry and transit bans, reporting duties, exceptions, penalties and entry into force. The annexes contain the lists of persons, entities and goods. Because the lists change far more often than the operative provisions, SECO publishes them separately and

maintains a searchable database. SECO counts twenty-eight sanctions ordinances in force, every one of which rests on measures adopted by the United Nations, the European Union or both.⁹ Some are small and old, such as the ordinance on Iraq, which still freezes assets of the former regime. Others, above all the ordinance on Russia and the one on Belarus, are among the most voluminous texts in Swiss federal law.

1 Notes

1. Federal Act of 22 March 2002 on the Implementation of International Sanctions (Embargo Act, EmbA), SR 946.231, Art. 1, English translation in the bilingual edition at <https://www.droit-bilingue.ch/de-en/9/94/946.231-1-4.html>. The official consolidated text is published on Fedlex at <https://www.fedlex.admin.ch/eli/cc/2002/564/de>. ↩
2. EmbA, Art. 2, <https://www.droit-bilingue.ch/de-en/9/94/946.231-2-5.html>. ↩
3. EmbA, Art. 9, <https://www.droit-bilingue.ch/de-en/9/94/946.231-9-12.html>. The English translation on that site still refers to fines of up to CHF 500,000 and CHF 1 million, which reflects the wording before the reform of the general part of the Criminal Code. SECO's current summary of the penalties, which refers to a custodial sentence of up to one year or a monetary penalty, five years in serious cases and fines of up to CHF 100,000 for negligence, is given in SECO, "FAQ – Sanktionen gegen Russland", https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/faq-russland_ukraine.html. ↩
4. EmbA, Art. 10, <https://www.droit-bilingue.ch/de-en/9/94/946.231-10-13.html>. Prosecution of a contravention is time-barred after five years, a period that can be extended by no more than half through interruption. ↩
5. EmbA, Art. 13, <https://www.droit-bilingue.ch/de-en/9/94/946.231-13-16.html>. ↩
6. Global Investigations Review, The European, Middle Eastern and African Investigations Review 2026, "Switzerland: seizure and forfeiture of Russian assets – legal basis called into question", <https://globalinvestigationsreview.com/review/the-european-middle-eastern-and-african-investigations-review/2026/article/switzerland-seizure-and-forfeiture-of-russian-assets-legal-basis->

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called-question. The article, written by an unnamed contributor, concludes that Swiss sanctions law alone provides no legal basis to forfeit Russian assets and discusses Articles 70 and 72 of the Criminal Code as alternative bases. ↩

7. EmbA, Art. 14, German and English text, <https://www.droit-bilingue.ch/de-en/9/94/946.231-14-17.html>. ↩
8. Verordnung vom 4. März 2022 über Massnahmen im Zusammenhang mit der Situation in der Ukraine, SR 946.231.176.72, Art. 32, <https://www.droit-bilingue.ch/de-fr/9/94/946.231.176.72-32-55.html>. ↩
9. SECO, “FAQ – Sanktionen der Schweiz” (cited above). ↩

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