



GUIDANCE

Good practices for the
facilitation of payments
between the EU
and all government-controlled
territories of Ukraine

1. Context

Council Regulation (EU) No 2022/263¹, as amended, sets out restrictive measures (sanctions) covering all areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine that are not under the control of the Government of Ukraine ('specified territories' - see Article 1(d) of that legal act). The European Commission has published Frequently Asked Questions (FAQs)² concerning the restrictions that apply to these non-government-controlled areas of the four oblasts.

EU sanctions do not entail restrictions on financial transactions that are initiated by, or directed at, entities located in the government-controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine. EU banks should process such transactions in a normal fashion.

2. Principles

Processing of payments by a Ukrainian bank is sufficient evidence that the relevant Ukrainian business entity operates in a government-controlled territory of Ukraine. Ukrainian business entities are not allowed to deal with business entities in temporarily occupied territories of Ukraine (TOT). Ukrainian authorities have imposed strict compliance rules in this respect, and Ukrainian banks are expected to check their clients thoroughly. Banks in the EU are allowed to rely on these checks.

Ukrainian banks do not operate in the TOT and do not service business entities (if any) located in the TOT, which in any case is not technically possible. According to the Commission's FAQs (Question 2): *"Since trade between the government and non-government controlled areas of these four oblasts is, in practice, not possible, it is highly unlikely that goods may come from the non-government controlled parts of these oblasts via the government-controlled areas..."*. Consequently, in the absence of any indications otherwise pointing in this direction, the mere fact that a Ukrainian bank is involved in the transaction should provide comfort that the transaction is not performed on the TOT.

Export and/or import of goods to/from Ukraine is supported with duly executed customs declarations processed by the State Customs Service of Ukraine, which does not operate in the TOT and does not process declarations for goods to/from the TOT. The movement of goods between government-controlled areas and the TOT is in any case rendered impossible by combat actions.

However, the fluid situation on the ground, coupled with EU banks' different risk appetites and levels of familiarity with the local geography, may require the carrying out of additional risk mitigating measures. In this case, the processing of payments between the EU and Ukraine may require more time than usual. In some instances, this process can lead to the rejection of payment orders, affecting business transactions and even remittances to Ukraine.

3. Good practices

With a view to facilitating the due diligence to be conducted by EU banks and, in turn, the processing of payments between the EU and Ukraine, the Commission supports the introduction of best practices for the content of financial messages (e.g. based on SWIFT).

Such good practices are predicated on the principle that the processing of payments by a Ukrainian bank is sufficient evidence that the relevant Ukrainian business entity operates in a government-controlled territory of Ukraine. As noted above, Ukraine has strict compliance rules in this respect, and EU banks are allowed to rely on them.

¹ <http://data.europa.eu/eli/reg/2022/263/oj>

² https://finance.ec.europa.eu/publications/donetsk-kherson-luhansk-and-zaporizhzhia-oblasts_en

However, in some cases doubts may remain even if the above principle is met. To avoid that such transactions are rejected prematurely by EU banks, the Commission recommends several measures by the relevant stakeholders, taken separately or in combination:

a. Within the payment details, provide the postal code of the Ukrainian parties, especially of the payer or payee:

The ordering party and/or its bank should systematically include the postal code and the city name in SWIFT messages (i.e. fields of SWIFT MT103, specifically fields 50, 59, 70 and/or 72 following a format according to the evolving ISO 20022 standards).

This can help EU banks to (1) identify the precise location in Ukraine of the relevant Ukrainian parties (the payer/payee and its servicing bank), and (2) distinguish between locations with identical or similar names in Ukrainian government-controlled territories and in the TOT.

b. Consult the Ukrainian government's up-to-date information about the current line of contact:

To verify whether the relevant Ukrainian business entity operates on Ukrainian government-controlled territory or in the TOT, EU banks are encouraged to actively consult the up-to-date list of TOT, as maintained and regularly updated by Ukrainian authorities³.

c. Consult the Ukrainian government's list of key business entities operating in the city of Zaporizhzhia (controlled by the Government of Ukraine):

Most cases where payments between the EU and Ukraine are blocked and/or delayed concern the city of Zaporizhzhia. In this respect it should be noted that the city of Zaporizhzhia is controlled by the Government of Ukraine. See also Question 1 in the Commission's Frequently Asked Questions (FAQs)⁴.

To facilitate payments with business entities located in the city of Zaporizhzhia, Ukrainian authorities have published a non-exhaustive list of key business entities operating in that city⁵. The list includes each business entity's postal code, address and name in English in the transcription recommended for banking and commercial documentation.

d. Consult the Ukrainian government's attestations that the relevant Ukrainian party is located in government-controlled territory:

EU banks may choose to further check the information certificates provided by Ukrainian authorities which ultimately attest that a specific Ukrainian entity is indeed located in the government-controlled territory of Ukraine. Such certificates will be available in the beginning of 2025; additional information will be issued in due course by Ukrainian authorities.

4. Conclusion

EU banks should process transactions with business entities located in government-controlled territories of Ukraine in a normal fashion, if there are no concrete indications of a breach or circumvention of sanctions.

³ <https://mtu.gov.ua/en/content/perelik-timchasovo-okupovanih-teritoriy.html>

⁴ https://finance.ec.europa.eu/publications/donetsk-kherson-luhansk-and-zaporizhzhia-oblasts_en

⁵ <https://www.zoda.gov.ua/news/72216/A-not-all-inclusive-list-of-key-business-entities-operating-in-the-city-of-Zaporizhzhia-controlled-by-the-Government-of-Ukraine.html>

