MASTER THESIS | MASTER'S THESIS

Titel | Title

Supervisory Enforcement and Institutional Liability of EU Credit Institutions in the Field of AML and Sanctions Compliance

verfasst von | submitted by

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angestrebter akademischer Grad | in partial fulfilment of the requirements for the degree of

Master of Laws (LL.M.)

Wien | Vienna, 2026

Studienkennzahl lt. Studienblatt | Degree programme code as it appears on the student record sheet:	UA 999 082
Universitätslehrgang lt. Studienblatt | Postgraduate programme as it appears on the student record sheet:	Europäisches und Internationales Wirtschaftsrecht (LL.M.) [Berufsbegleitend Englisch]
Betreut von | Supervisor:	ao. Univ.-Prof. Mag. Dr. Siegfried Fina

Abstract (English)

This thesis examines the effectiveness of the European Union's framework for supervisory enforcement and institutional liability of credit institutions in the fields of anti-money laundering (AML) and EU sanctions compliance. The analysis focuses on the relationship between EU-level harmonisation and national implementation, as well as on the role of supervisory authorities in ensuring the consistent enforcement of compliance obligations.

The study analyses the EU anti-money laundering and sanctions frameworks, the obligations imposed on credit institutions, and the supervisory architecture governing their enforcement. Particular attention is devoted to the interaction between AML and sanctions compliance, the challenges arising from fragmented supervisory practices across Member States, and the evolving concept of institutional liability. The thesis further examines recent regulatory developments, most notably the establishment of the Anti-Money Laundering Authority (AMLA), and assesses its potential contribution to greater consistency in supervision across the Union.

The findings demonstrate that the European Union has developed a comprehensive and increasingly harmonised regulatory framework aimed at preventing money laundering, terrorist financing, and the circumvention of restrictive measures. However, despite significant legislative progress, important differences in supervisory practices and enforcement approaches continue to affect the consistency and predictability of regulatory outcomes across Member States. The analysis further reveals a shift from a liability model focused primarily on individual compliance failures to a broader concept of institutional responsibility encompassing governance arrangements, risk-management systems, and internal controls.

The thesis concludes that legislative harmonisation alone cannot ensure effective and uniform enforcement throughout the Union. While AMLA represents a significant step towards greater supervisory coordination and convergence, its long-term success will depend on effective cooperation between national authorities and the development of consistent supervisory standards across the EU.

Abstract (Deutsch)

Diese Masterarbeit untersucht die Wirksamkeit des Rechtsrahmens der Europäischen Union für die aufsichtsrechtliche Durchsetzung und die institutionelle Haftung von Kreditinstituten im Bereich der Geldwäschebekämpfung (AML) und der Einhaltung von EU-Sanktionen. Im Mittelpunkt der Analyse stehen das Verhältnis zwischen der Harmonisierung auf EU-Ebene und der nationalen Umsetzung sowie die Rolle der Aufsichtsbehörden bei der Gewährleistung einer einheitlichen Durchsetzung regulatorischer Verpflichtungen.

Die Arbeit analysiert den unionsrechtlichen Rahmen zur Bekämpfung von Geldwäsche sowie den Sanktionsrahmen der Europäischen Union, die Kreditinstituten auferlegten Verpflichtungen und die institutionelle Struktur der Aufsicht. Besonderes Augenmerk gilt dem Zusammenspiel von AML- und Sanktionsvorschriften, den Herausforderungen fragmentierter Aufsichtspraktiken in den Mitgliedstaaten sowie der Weiterentwicklung des Konzepts institutioneller Haftung. Darüber hinaus untersucht die Arbeit aktuelle regulatorische Entwicklungen, insbesondere die Errichtung der Anti-Money Laundering Authority (AMLA), und bewertet deren potenziellen Beitrag zu einer stärkeren Kohärenz der Aufsicht innerhalb der Union.

Die Ergebnisse zeigen, dass die Europäische Union einen umfassenden und zunehmend harmonisierten Rechtsrahmen zur Bekämpfung von Geldwäsche, Terrorismusfinanzierung und der Umgehung restriktiver Maßnahmen geschaffen hat. Trotz erheblicher legislativer Fortschritte bestehen jedoch weiterhin bedeutende Unterschiede in den Aufsichts- und Durchsetzungspraktiken der Mitgliedstaaten, die die Konsistenz und Vorhersehbarkeit regulatorischer Ergebnisse beeinträchtigen. Die Analyse verdeutlicht zudem einen Wandel von einem Haftungsmodell, das primär auf individuelle Compliance-Verstöße ausgerichtet ist, hin zu einem erweiterten Verständnis institutioneller Verantwortung, das Governance-Strukturen, Risikomanagementsysteme und interne Kontrollmechanismen umfasst.

Die Arbeit gelangt zu dem Ergebnis, dass eine gesetzgeberische Harmonisierung allein keine wirksame und einheitliche Durchsetzung innerhalb der Europäischen Union gewährleisten kann. Obwohl AMLA einen bedeutenden Schritt hin zu stärkerer aufsichtsrechtlicher Koordinierung und Konvergenz darstellt, wird ihr langfristiger Erfolg von einer effektiven Zusammenarbeit der nationalen Behörden sowie von der Entwicklung gemeinsamer Aufsichtsstandards innerhalb der EU abhängen.

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1. Introduction

The prevention of money laundering and the enforcement of international sanctions have become central elements of the European Union's efforts to safeguard the integrity and stability of its financial system.[1] Credit institutions, banks in particular, play a central role within this regulatory framework, given they are required to implement complex compliance mechanisms, including customer due diligence, transaction monitoring, and the reporting of suspicious activities. At the same time, the increasing use of economic sanctions as a foreign policy instrument has further expanded the regulatory obligations applicable to financial institutions operating within the European Union.[2]

In recent years, the European Union has significantly strengthened its legal framework through successive Anti-Money Laundering Directives and, more recently, through the adoption of a comprehensive legislative package aimed at enhancing supervisory coordination and effectiveness.[3] Despite these developments, a number of high-profile compliance failures and enforcement actions have exposed structural weaknesses in the existing system. Notably, the fragmentation of supervisory practices across Member States and the uneven application of enforcement measures raise concerns as to the overall effectiveness of the current regulatory framework.

Against this background, this thesis examines the extent to which the European Union provides an effective system of supervisory enforcement and institutional liability for credit institutions in the field of anti-money laundering and sanctions compliance. The analysis focuses on the interaction between EU-level harmonisation and national implementation, and the role of supervisory authorities in ensuring consistent enforcement of compliance obligations. Particular attention is given to recent institutional developments, including the establishment of the Anti-Money Laundering Authority (AMLA), and their role in strengthening supervisory coordination at the EU level.[4]

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[1] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [2015] OJ L141/73.
[2] Council of the European Union, 'Why sanctions?' <https://www.consilium.europa.eu/en/policies/why-sanctions/> accessed 30 March 2026.
[3] European Commission, 'Anti-Money Laundering and Countering the Financing of Terrorism Legislative Package' (20 July 2021) <https://finance.ec.europa.eu/publications/anti-money-laundering-and-countering-financing-terrorism-legislative-package_en> accessed 30 March 2026.
[4] Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 [2024] OJ L, 2024/1620.

The aim of this thesis is to provide a comprehensive legal analysis of the mechanisms governing supervisory enforcement and institutional liability within the EU framework, and to assess whether recent reforms are capable of enhancing the consistency and effectiveness of compliance enforcement across Member States. The thesis also contributes to the broader discussion on the evolution of EU financial regulation and the challenges associated with ensuring effective oversight of increasingly complex financial systems.

The analysis is structured as follows. The first chapter introduces the broader regulatory context of anti-money laundering and sanctions compliance within the European Union, outlines the objectives of the research, and explains the methodological approach. The second chapter analyses the EU legal framework governing anti-money laundering, with particular emphasis on the development of legislative instruments and the obligations imposed on credit institutions. The third chapter examines the legal basis and practical implementation of the EU sanctions regime, including the role of financial institutions and the challenges associated with sanctions compliance. The fourth chapter focuses on the supervisory architecture of the EU, analysing the roles of national competent authorities, European supervisory bodies, and the newly established Anti-Money Laundering Authority (AMLA). The fifth chapter addresses the issue of institutional liability of credit institutions in cases of compliance failures, with particular attention to enforcement practices and administrative sanctions across Member States.

Finally, the analysis provides a critical assessment of the existing regulatory framework and identifies key challenges in the enforcement of AML and sanctions compliance obligations.

2. The EU Anti-Money Laundering Framework

The European Union has developed a comprehensive regulatory framework aimed at preventing the misuse of the financial system for illicit purposes, in particular money laundering and the financing of terrorism. This framework reflects both international standards and internal legislative developments, as the EU has progressively adapted its approach in response to increasingly complex financial risks.

Within this system, credit institutions perform a central role in ensuring the effective implementation of anti-money laundering measures. They are required to establish internal controls, conduct customer due diligence, and monitor transactions in order to detect and prevent suspicious activities. As such, the effectiveness of the overall framework depends not only on the existence of legal rules, but also on their consistent application in practice.

At the same time, the EU anti-money laundering framework operates within a multi-level regulatory structure combining Union-level legislation with national implementation. While this has enabled the development of a sophisticated regulatory system, it has also led to certain challenges, particularly in ensuring consistency and effective supervisory coordination across Member States.

2.1 Evolution of the EU Anti-Money Laundering Framework

The evolution of the European Union's anti-money laundering framework has been closely shaped by international regulatory initiatives. In particular, the recommendations of the Financial Action Task Force (FATF) have played a significant role in guiding the development of EU legislation in this field.[5] Over time, these international standards have been translated into binding legal instruments within the EU, primarily through a series of Anti-Money Laundering Directives.

These directives have gradually expanded the scope of regulatory obligations imposed on financial institutions. While earlier measures focused mainly on customer identification and record-keeping, subsequent developments introduced a more comprehensive risk-based approach, requiring institutions to assess and manage money laundering risks in a structured and ongoing manner.[6]

[5] Financial Action Task Force, *'International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation': The FATF Recommendations* (adopted 16 February 2012, amended October 2025).
[6] Directive (EU) 2015/849 (n 1), recitals 22–23 and art 8.

A key milestone in this development was the adoption of the Fourth Anti-Money Laundering Directive, which introduced stricter due diligence requirements, enhanced transparency obligations, and a stronger emphasis on risk assessment.[7] This framework was further strengthened by the Fifth Anti-Money Laundering Directive, which addressed emerging risks, particularly in relation to technological developments and virtual assets.[8]

Despite these developments, the reliance on directives has resulted in a degree of fragmentation across Member States. As directives require national transposition, differences in implementation and supervisory practices persist, which may affect the coherence and practical effectiveness of the EU anti-money laundering framework.

2.2 Key Legislative Instruments

The legal framework governing anti-money laundering within the European Union is primarily structured around a series of legislative instruments adopted over time, combining both directives and, more recently, directly applicable regulations. These instruments establish the core obligations imposed on financial institutions, while also defining the responsibilities of supervisory authorities at both national and EU levels.

At the centre of this framework is Directive (EU) 2015/849, commonly referred to as the Fourth Anti-Money Laundering Directive.[9] The directive introduced a comprehensive risk-based approach, requiring obliged entities to identify, assess, and mitigate money laundering risks. It further set out key compliance obligations, including customer due diligence, record-keeping requirements, and the reporting of suspicious transactions.

The regulatory framework was subsequently strengthened by Directive (EU) 2018/843, known as the Fifth Anti-Money Laundering Directive.[10] This directive expanded the scope of the existing framework by addressing emerging risks, particularly those associated with technological developments and virtual assets. Enhanced transparency requirements were introduced, in particular through the creation of beneficial ownership registers.

[7] Directive (EU) 2015/849 (n 1), recitals 22–23, art 8, 10–24 and 30.

[8] Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [2018] OJ L156/43.

[9] Directive (EU) 2015/849 (n 1).

[10] Directive (EU) 2018/843 (n 8).

In addition, Directive (EU) 2018/1673 further complements the framework by addressing the criminal law aspects of money laundering, including the definition of offences and applicable sanctions.[11]

More recently, the European Union has moved towards greater harmonisation through the adoption of directly applicable regulations. Notably, Regulation (EU) 2024/1624 aims to reduce fragmentation by introducing uniform rules across Member States.[12] Unlike directives, which require national transposition, regulations apply directly and therefore contribute to a more coherent and effective legal framework.

An important institutional development within the EU framework is the establishment of the Anti-Money Laundering Authority (AMLA). Regulation (EU) 2024/1620 provides for the creation of a centralised supervisory body aimed at enhancing coordination and ensuring more effective oversight of high-risk entities.[13] This institutional reform reflects the EU's broader effort to address structural weaknesses in the existing system and to strengthen supervisory convergence.

2.3 Obligations of Credit Institutions under the EU AML Framework

The effectiveness of the European Union's anti-money laundering framework ultimately depends on the obligations imposed on credit institutions, which are key actors in preventing the misuse of the financial system. As the primary intermediaries in financial transactions, these institutions are required to implement a range of preventive measures aimed at identifying and mitigating risks associated with money laundering and terrorist financing.[14]

A key component of this framework is customer due diligence (CDD). Credit institutions must identify and verify the identity of their customers and, where applicable, establish the beneficial ownership of legal entities. The obligation extends beyond the initial onboarding phase and includes the ongoing monitoring of business relationships and transactions, ensuring that they remain consistent with the institution's knowledge of the customer and their risk profile.[15]

In addition to customer due diligence, credit institutions must comply with record-keeping requirements, maintaining relevant documentation and transaction data for a specified period.

[11] Directive (EU) 2018/1673 of the European Parliament and of the Council on combating money laundering by criminal law [2018] OJ L284/22, arts 3–5 and 7–8.
[12] Regulation (EU) 2024/1624 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [2024].
[13] Regulation (EU) 2024/1620 (n 4), art 1(1) and art 1(3) (c)–(d).
[14] Directive (EU) 2015/849 (n 1), recitals 22–23 and art 8.
[15] Directive (EU) 2015/849 (n 1), arts 13–18.

These record-keeping requirements are essential in enabling competent authorities to trace financial activities and to reconstruct transactions where necessary.[16]

Equally important is the duty to report suspicious transactions. Where a credit institution suspects that funds are linked to criminal activity or terrorist financing, it is required to promptly notify the relevant financial intelligence unit. This reporting obligation constitutes a cornerstone of the EU anti-money laundering framework, as it facilitates the detection and investigation of illicit financial flows.[17]

The implementation of these measures is guided by a risk-based approach, requiring credit institutions to assess and categorise the level of risk associated with different customers, products, and transactions. This approach allows institutions to allocate resources proportionately and to apply enhanced measures in higher-risk situations, thereby contributing to the overall effectiveness of the regulatory framework.[18]

While this regulatory framework provides a comprehensive basis for preventing money laundering, its practical impact depends largely on the consistency of its implementation across Member States and the capacity of supervisory authorities to ensure compliance. This underscores the continued importance of supervisory coordination and the challenges associated with achieving a uniform application of EU anti-money laundering rules.

3. EU Sanctions Framework

The European Union's sanctions framework constitutes a key instrument of its external action, aimed at promoting international peace and security, safeguarding fundamental values, and responding to serious violations of international law. Unlike anti-money laundering measures, which primarily focus on the integrity of the financial system, EU sanctions pursue broader foreign policy and security objectives.[19]

Sanctions, often referred to as restrictive measures, are adopted within the framework of the Common Foreign and Security Policy (CFSP).[20] They are typically imposed in response to specific geopolitical developments, including armed conflicts, human rights violations, or threats to international stability. These measures may target states, entities, or individuals, and

[16] Directive (EU) 2015/849 (n 1), art 40.
[17] Directive (EU) 2015/849 (n 1), art 33.
[18] Directive (EU) 2015/849 (n 1), arts 6–8.
[19] Council of the European Union (n 2).
[20] Treaty on European Union (TEU) art 29; Treaty on the Functioning of the European Union (TFEU) art 215.

commonly include asset freezes, prohibitions on making funds available, and restrictions on economic relations.[21]

The implementation of EU sanctions relies heavily on financial institutions, particularly credit institutions, which are responsible for ensuring compliance with restrictive measures in practice. This includes the screening of customers and transactions against sanctions lists, the freezing of assets where necessary, and the prevention of prohibited transactions. As a result, the effectiveness of the EU sanctions regime is closely dependent on the ability of these institutions to translate legal obligations into operational compliance mechanisms within their internal systems.[22]

At the same time, the EU sanctions framework operates within a complex system that combines decision-making at the EU level with enforcement at the national level. While this structure allows for flexibility in responding to international developments, it may also give rise to challenges in ensuring consistent implementation across Member States. This may result in differences in the way sanctions are applied in practice, thereby affecting the overall coherence and effectiveness of the EU sanctions regime.

3.1 Legal Basis and Structure of EU Sanctions

The legal basis of the European Union's sanctions framework reflects its dual nature, combining elements of foreign policy decision-making with legally binding economic measures. In EU law, sanctions are commonly referred to as restrictive measures and are adopted through a two-step process involving both the Common Foreign and Security Policy (CFSP) and the Treaty on the Functioning of the European Union (TFEU).[23]

At the first stage, the Council adopts decisions under Article 29 of the Treaty on European Union (TEU), which establish the Union's position with regard to a particular international situation.[24] These decisions define the scope and objectives of the restrictive measures, including the designation of targeted states, entities, or individuals. However, as CFSP decisions do not generally have direct effect, their implementation requires further legal instruments.[25]

[21] Council of the European Union (n 2).
[22] Ibid.
[23] Ibid.
[24] Treaty on European Union (TEU) (n 20), art 29.
[25] Treaty on the Functioning of the European Union (TFEU) (n 20), art 215.

At the second stage, economic and financial measures are implemented through regulations adopted under Article 215 TFEU.[26] Unlike CFSP decisions, these regulations are directly applicable in all Member States and impose binding obligations on both public authorities and private actors, including financial institutions.[27] This distinction is particularly significant in the context of asset freezes and restrictions on financial dealings, which must be enforced uniformly across the internal market.

The dual legal structure of EU sanctions reflects the broader constitutional framework of the Union, in which foreign policy decision-making remains largely intergovernmental, while economic measures are embedded within the supranational legal order. While this arrangement enables the Union to combine political flexibility with legally binding effects, it may also give rise to challenges in ensuring coherence and consistency between the different instruments involved. These structural features may, in turn, lead to variations in the practical application of sanctions across Member States, thereby raising broader questions regarding the design and operation of specific sanctions measures.

3.2 Types of EU Sanctions

The European Union employs a range of restrictive measures designed to achieve its foreign policy objectives while seeking to minimise unintended humanitarian and economic consequences. These measures can be broadly categorised into financial sanctions, sectoral measures, and individual (targeted) sanctions, each serving a distinct function within the overall framework.

Financial sanctions constitute one of the most widely used instruments within the EU sanctions regime, typically involving the freezing of assets and the prohibition on making funds or economic resources available to designated persons or entities. These measures are implemented through regulations adopted under Article 215 TFEU, which are directly applicable in all Member States and impose binding obligations on both public authorities and private actors, including financial institutions.[28] Their effectiveness largely depends on the capacity of financial institutions to implement robust screening mechanisms and to ensure

[26] Treaty on the Functioning of the European Union (TFEU) (n 20), art 215.
[27] Treaty on the Functioning of the European Union (TFEU) (n 20), arts 215 and 288.
[28] Treaty on the Functioning of the European Union (TFEU) (n 20), arts 215 and 288; Council of the European Union (n 2).

ongoing compliance with sanctions lists, which are frequently updated in response to evolving geopolitical developments.

Alongside financial sanctions, the EU increasingly relies on sectoral sanctions, particularly in response to complex geopolitical situations. They may target specific areas such as finance, energy, transport, or defence, and often involve limitations on access to capital markets, export restrictions, or prohibitions on the provision of certain services.[29] While sectoral sanctions allow for a more calibrated response compared to comprehensive trade embargoes, their practical application can be challenging, as they require a detailed understanding of both legal provisions and the economic activities concerned.

Another important feature of the EU sanctions regime is the use of individual (targeted) sanctions directed at specific natural or legal persons, groups, or entities. They typically take the form of travel bans and asset freezes and are intended to exert pressure on those deemed responsible for particular actions, without imposing broad restrictions on entire populations.[30] However, the increasing reliance on targeted sanctions has raised important legal concerns, particularly in relation to due process and fundamental rights. Case law of the Court of Justice of the European Union has demonstrated that individuals subject to restrictive measures must be afforded adequate procedural safeguards, including the right to be informed of the reasons for their inclusion on sanctions lists and the possibility of judicial review.[31]

Taken together, these different types of restrictive measures illustrate the EU's preference for a flexible and targeted approach to sanctions. While this allows for a more nuanced response to complex geopolitical situations, the effectiveness of such measures ultimately depends on their consistent implementation across Member States, as well as on the capacity of both public authorities and private actors to ensure compliance in practice. This is particularly evident in the context of financial sanctions, where the central role of credit institutions in translating legal obligations into operational measures underscores the need for effective supervision and coordination within the EU framework.

[29] Council of the European Union, 'EU Restrictive Measures: Types of Sanctions' <https://www.consilium.europa.eu/en/policies/why-sanctions/>accessed 30 March 2026.
[30] Ibid.
[31] Case C-402/05 P and C-415/05 P Kadi and AI Barakaat International Foundation v Council and Commission EU:C:2008:461.

3.3 Implementation and Enforcement of EU Sanctions

The effectiveness of the European Union's sanctions regime ultimately depends on its practical implementation at both Union and national levels. While restrictive measures are adopted within a clearly defined legal framework, their real impact is shaped by the extent to which they are applied consistently across Member States and enforced in everyday practice by public authorities and private actors. This creates a structural tension between the formal uniformity of EU law and realities of decentralised enforcement.

A central aspect of enforcement concerns the role of national competent authorities, which are responsible for supervising compliance with EU sanctions and ensuring that breaches are appropriately addressed. Although regulations adopted under Article 215 TFEU are directly applicable, their enforcement relies on national competent authorities and implementation measures at Member States level. This may affect the uniform application and overall coherence of the EU sanctions regime.[32] This decentralised configuration also may expose certain structural vulnerabilities, as the effectiveness of sanctions ultimately depends on uneven national enforcement capacities rather than on a fully harmonised supervisory framework.

Against this background, the application of financial sanctions places significant operational demands on financial institutions, particularly in relation to asset freezes and restrictions on making funds or economic resources available to designated persons or entities. Compliance requires the establishment of robust internal systems, including customer screening, transaction monitoring, and the continuous verification of sanctions lists. The complexity of these obligations is further increased by the frequent amendments to EU sanctions regimes, which require institutions to react promptly to regulatory changes. This not only increases compliance costs but may also create uncertainty in risk assessment and decision-making processes.

At the same time, the reliance on private actors in ensuring compliance gives rise to important legal and practical challenges. Financial institutions are often required to interpret and apply complex legal provisions, which may create legal uncertainty, particularly in cross-border contexts. In addition, the risk of over-compliance, whereby institutions adopt an overly cautious approach in order to avoid potential liability, may lead to unintended consequences, including the restriction of legitimate economic activity. This raises concerns about the proportionality of sanctions in practice and their potential impact on fundamental economic freedoms. More

[32] Treaty on the Functioning of the European Union (TFEU) (n 20), arts 215 and 288.

fundamentally, the shift of enforcement responsibilities towards private actors effectively transfers regulatory risk to entities that lack formal interpretative authority, thereby complicating the consistent application of EU law.

These considerations demonstrate that the effectiveness of EU sanctions depends not only on their formal adoption but also on the capacity of both public authorities and private actors to ensure their consistent and proportionate application in practice. The increasing reliance on decentralised enforcement mechanisms suggests that achieving a balance between effectiveness, legal certainty, and fundamental rights remains a continuing challenge. This issue becomes particularly relevant when examining the interaction between sanctions and anti-money laundering frameworks, which will be addressed in the following section.

3.4 Interaction between EU Sanctions and Anti-Money Laundering Frameworks

The interaction between EU sanctions and anti-money laundering (AML) frameworks reflects an increasing convergence between distinct regulatory regimes, both of which rely heavily on financial institutions for their effective implementation. While these frameworks pursue different primary objectives, with sanctions serving foreign policy and security goals and AML measures addressing financial crime, their practical application often overlaps, particularly in the context of customer due diligence, transaction monitoring, and reporting obligations.[33]

From a legal perspective, this interaction is not formally structured as a unified system but operates through parallel and, in certain respects, overlapping obligations imposed on financial institutions. Under EU AML legislation, obliged entities are required to identify and verify customers, monitor transactions, and report suspicious activities.[34] EU sanctions regimes, however, impose distinct obligations, including the screening of clients against sanctions lists and the freezing of assets belonging to designated persons or entities.[35] In practice, these requirements are frequently implemented through integrated compliance processes, which tends to obscure the conceptual boundaries between the two frameworks. This blurring of boundaries is not merely conceptual but creates tangible uncertainty for financial institutions, which must navigate overlapping obligations without clear rules on prioritisation.

[33] Directive (EU) 2015/849 (n 1), arts 13 and 33.
[34] Ibid.
[35] Council of the European Union (n 2).

This functional overlap reflects both synergies and tensions. On the one hand, the use of similar compliance tools allows institutions to rationalise internal procedures and reduce duplication. On the other hand, differences in legal standards may create uncertainty. A key distinction lies in the fact that AML obligations are generally risk-based and allow for a certain level of discretion, whereas sanctions requirements are more prescriptive and leave limited scope for interpretation. This divergence places institutions in a position where they must reconcile competing regulatory expectations without clear guidance as to their prioritisation. This complexity is especially pronounced in cross-border contexts, where variations in interpretation may further complicate the consistent application of both regimes.

The interaction between sanctions and AML frameworks also brings into focus issues of proportionality and the protection of fundamental rights. Measures such as asset freezes, especially when combined with restrictive AML practices, may have a significant impact on the economic activities of individuals and entities and, in certain circumstances, go beyond what is necessary to achieve regulatory objectives. The case law of the Court of Justice of the European Union has emphasised the importance of procedural safeguards in the application of restrictive measures, including the right to be heard and the availability of judicial review.[36] In this context, the cumulative effect of overlapping compliance obligations can heighten the risk of excessive interference with individual rights, especially where precautionary measures are applied broadly. Without clearer coordination at the EU level, this interaction risks weakening both the predictability and the overall effectiveness of the regulatory framework.

From a wider perspective, the convergence of sanctions and AML frameworks reflects a shift towards increasingly complex models of regulatory compliance in the financial sector. While the integration of compliance processes may enhance efficiency, it also highlights issues of legal certainty and the clarity of regulatory expectations. This suggests that the effectiveness of these frameworks ultimately depends not only on their individual design but also on the extent to which their interaction is managed in a coherent and transparent manner.

These considerations demonstrate that the interaction between EU sanctions and AML frameworks extends beyond operational overlap and engages broader structural and normative issues. The need to balance effectiveness, legal certainty, and the protection of fundamental rights becomes more pronounced where multiple regulatory regimes operate simultaneously.

[36] Kadi (n 31), paras 336–353.

This underscores the importance of clearer guidance and stronger coordination at the EU level in order to ensure both consistent application and the safeguarding of individual rights.

3.5 Effectiveness and Limitations of EU Sanctions

The effectiveness of the European Union's sanctions regime continues to generate substantive debate, notably in light of the increasing reliance on targeted and sectoral measures. While sanctions are conceived as flexible instruments capable of responding to complex geopolitical developments, their practical impact is not always commensurate with their intended objectives.[37] This discrepancy between design and outcome reflects both structural and operational constraints within the EU sanctions framework.[38]

A key structural limitation stems from the decentralised nature of enforcement. Although restrictive measures are adopted at the Union level, their implementation depends largely on Member States, which retain competence over supervision and the imposition of penalties.[39] This allocation of responsibilities can result in variations in enforcement intensity, institutional capacity, and interpretative approaches. As a consequence, similar situations may be treated differently across jurisdictions, potentially undermining the uniform application of EU law and weakening the overall credibility of the sanctions regime.[40] This allocation of responsibilities limits the capacity of the EU to ensure fully consistent enforcement, as variations in administrative practice persist across jurisdictions.

In addition to institutional fragmentation, the effectiveness of sanctions is closely linked to the role of private actors, particularly financial institutions. These institutions are responsible for translating legal obligations into operational measures, often within the framework of risk-based compliance systems.[41] However, such systems inevitably involve a degree of discretion, which may affect the consistency of application in practice. The complexity of sanctions implementation, involving multiple institutional actors, decision-making levels and administrative structures, may contribute to divergent compliance practices and inconsistencies in application across jurisdictions.[42] This dynamic may result in either insufficient enforcement,

[37] Clara Portela, 'The EU's Use of "Targeted" Sanctions: Evaluting Effectiveness' (2016) CEPS Working Document, 7.
[38] Francesco Giumelli, *Coercing, Constraining and Signalling: Explaining UN and EU Sanctions after the Cold War* (ECPR Press 2011) 45–48.
[39] Council of the European Union (n 29).
[40] Ibid.
[41] Directive (EU) 2015/849 (n 1), arts 8 and 13.
[42] Mikael Eriksson, *Targeting Peace: Understanding UN and EU Targeted Sanctions* (Routledge 2011) 112–115.

where obligations are interpreted narrowly, or excessively cautious compliance practices, where institutions adopt overly restrictive measures in order to minimise legal risk. Both outcomes undermine the balance between effectiveness and proportionality that the sanctions regime seeks to achieve.

A further limitation concerns the ability of targeted sanctions to achieve broader political or economic objectives. While such measures are intended to influence behaviour of specific individuals or entities, their indirect effects may extend beyond the designated targets.[43] In certain cases, asset freezes and financial restrictions can disrupt legitimate economic activities or affect third parties, thereby prompting concerns regarding proportionality and the calibration of sanctions measures.[44] This is illustrated in the case of Bank Mellat, where the General Court annulled EU restrictive measures after finding that the Council had failed to adequately substantiate the listing and assess the validity of the evidence relied upon, thereby reinforcing the requirements of adequate reasoning, procedural safeguards, and effective judicial review in sanctions decisions.[45] The case law of the Court of Justice has emphasised that restrictive measures must remain subject to adequate procedural safeguards and effective judicial review, particularly where fundamental rights are engaged.[46]

Viewed more broadly, the growing structural complexity of sanctions regimes further complicates their effective implementation. Frequent amendments, evolving geopolitical contexts, and the interaction with other regulatory frameworks, such as anti-money laundering rules, place significant demands on both public authorities and private actors.[47] Ensuring timely and accurate compliance in such an environment requires not only technical capacity but also clear guidance and coordination at the EU level.[48]

Ultimately, the effectiveness of EU sanctions depends on a combination of legal coherence, institutional coordination, and practical enforceability. Strengthening these elements is essential in order to ensure that sanctions remain a credible and proportionate tool of the Union's external

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[43] Thomas J. Biersteker, Sue E. Eckert and Marcos Tourinho (eds), *Targeted Sanctions: The Impacts and Effectiveness of UN Action* (Cambridge University Press 2016), 243–246.
[44] Biersteker, Eckert and Tourinho (n 43), 246.
[45] Case T-496/10 *Bank Mellat v Council* EU:T:2013:39, paras 100–107, 140.
[46] Kadi (n 31), paras 336–353.
[47] European Commission, 'Sanctions (Restrictive Measures)' <https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures_en> accessed 30 March 2026.
[48] Council of the European Union, *Best Practices for the Effective Implementation of Restrictive Measures* (2022).

action, capable of achieving their intended objectives without producing unintended legal or economic consequences.[49]

3.6 Practical Challenges and Compliance Risks for Financial Institutions

Financial institutions play a central role in the effective implementation of EU sanctions, as they are responsible for translating legal obligations into operational decisions in a timely manner. This role extends beyond formal compliance, requiring institutions to interpret complex and evolving regulatory frameworks while managing significant legal and reputational risks. In practice, this results in a framework in which compliance is shaped not only by legal requirements but also by risk-avoidance strategies.[50]

Cross-border operations further complicate compliance efforts. Differences in national enforcement practices, interpretative approaches, and supervisory expectations give rise to a fragmented regulatory landscape requiring institutions to navigate inconsistent supervisory standards. Such fragmentation undermines legal certainty and increases the likelihood of divergent compliance outcomes, even in relation to identical legal obligations.[51]

A central challenge lies in reconciling legal precision with operational feasibility. Sanctions regimes often rely on broadly formulated or evolving criteria for designation, which can create uncertainty in identifying relevant persons, entities, or transactions. As a result, financial institutions must frequently make determinations in situations where legal guidance remains limited or ambiguous. In this context, institutions may be regarded as assuming a quasi-regulatory role, as they are required to interpret and apply legal standards without possessing formal decision-making authority.

In addition, the interaction between sanctions regimes and anti-money laundering frameworks significantly broadens the scope of regulatory requirements. Financial institutions are required to integrate multiple layers of regulatory obligations, including customer due diligence, transaction monitoring, and related compliance measures.[52] These requirements do not always align in terms of scope or objectives, which may create operational inconsistencies. In practice, this may result in a form of regulatory overextension, where compliance systems are designed not only to meet legal requirements but also to anticipate potential enforcement risks.

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[49] Council of the European Union, *Best Practices for the Effective Implementation of Restrictive Measures* (2022).
[50] Council of the European Union (n 29).
[51] Council of the European Union (n 48).
[52] Directive (EU) 2015/849 (n 1), art 13.

This regulatory environment fosters overly cautious compliance practices, particularly in high-risk or uncertain contexts. Financial institutions may adopt particularly cautious compliance practices in order to avoid potential exposure to sanctions violations, even where such measures are not strictly required by law.[53] Although this approach reduces institutional risk, thereby limiting access to financial services and disrupting legitimate economic activity. Such effects call into question the proportionality of sanctions in practice and their impact on fundamental economic freedoms.

Ultimately, the practical effectiveness of EU sanctions depends not only on the clarity of legal rules but also on the capacity of financial institutions to implement them in a consistent and proportionate manner. Strengthening guidance, enhancing supervisory coordination, and reducing interpretative ambiguity remain essential in order to ensure that compliance practices align with both the objectives and the limits of the EU sanctions framework.[54]

4. Supervisory Architecture of AML and Sanctions Compliance in the EU

The effective implementation of anti-money laundering and sanctions frameworks within the European Union depends not only on the substantive legal rules governing these regimes, but also on the institutional structures through which supervision is carried out, which ultimately determining whether compliance practices align with both the objectives and the limits of the EU sanctions framework. [55]

This institutional dimension is reflected in the EU's multi-level supervisory architecture, in which responsibilities are shared between national competent authorities and Union-level bodies.[56] While AML supervision has traditionally been organised along decentralised lines, with supervisory responsibility retained by Member States, recent developments indicate a gradual move towards enhanced coordination and a greater degree of integration at the EU level.[57]

In the field of sanctions, supervisory responsibilities continue to be exercised predominantly by national authorities, which are responsible for monitoring compliance with restrictive measures adopted under Article 215 TFEU and ensuring their effective enforcement in practice.[58]

[53] Eriksson (n 42), 111–116.
[54] European Commission (n 47).
[55] European Commission, *Communication on a comprehensive Union policy on preventing money laundering and terrorist financing* COM(2020) 280 final, 3–5.
[56] Ibid 3–5.
[57] European Commission (n 3).
[58] TFEU (n 20) art 215; Council of the European Union (n 2).

However, the increasing complexity of sanctions regimes and their interaction with AML obligations have highlighted structural limitations in this model, particularly in relation to consistency of enforcement and interpretative convergence across jurisdictions.

The establishment of Anti-Money Laundering Authority (AMLA) marks a significant institutional development aimed at addressing these structural limitations. Under Regulation (EU) 2024/1620, AMLA is entrusted with both direct and indirect supervisory powers, including the direct supervision of selected high-risk financial institutions and the coordination of national supervisory authorities.[59] This hybrid model reflects an attempt to balance greater EU level oversight with the continued relevance of national supervisory expertise.

At the same time, the broader EU supervisory framework involves additional actors, including the European Banking Authority (EBA), which plays a key role in developing regulatory standards and promoting supervisory convergence in AML matters.[60] The interaction between these bodies contributes to a more complex and multi-layered institutional landscape, where overlapping mandates and shared competences require effective coordination mechanisms.

Against this background, the EU supervisory architecture can be understood as a system in transition, moving from a predominantly decentralised model towards a more integrated framework. While these developments have the potential to improve the consistency and overall functioning of the supervisory framework, they simultaneously give rise to important questions regarding the allocation of responsibilities, accountability structures, and the practical capacity of institutions to manage cross-border risks in a coherent manner.

4.1 National Competent Authorities and the Decentralised Enforcement of EU Sanctions

National competent authorities occupy a central position in the supervision and enforcement of both anti-money laundering and EU sanctions regimes. As regards sanctions in particular, responsibility for monitoring compliance, investigating potential breaches, and imposing penalties remains largely vested in Member States.[61] This reflects the legal structure of EU

[59] Regulation (EU) 2024/1620 (n 4), arts 5–7.
[60] Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority) [2010] OJ L331/12, art 8(1)(a)–(b).
[61] Council of the European Union (n 2); TFEU (n 20) art 215.

sanctions, where measures adopted at Union level, typically under Article 215 TFEU, require implementation and enforcement through national legal and institutional frameworks.[62]

This allocation of responsibilities gives rise to a system in which supervisory practices, oversight intensity, and interpretative approaches may vary across jurisdictions. While such flexibility allows Member States to tailor implementation to domestic legal systems, it also introduces a degree of fragmentation that may undermine the uniform application of EU law. Differences in administrative capacity, institutional expertise, and regulatory priorities further contribute to divergent enforcement outcomes, even where identical legal obligations apply.

The case law of the Court of Justice of the European Union highlights the limits of this nationally driven system of enforcement. In *Kadi and Al Barakaat International Foundation v Council and Commission*, the Court confirmed that EU sanctions must comply with fundamental rights and remain subject to full judicial review within the EU legal order.[63] This establishes an important constraint on both EU institutions and national authorities, requiring that the implementation of sanctions respect core legal principles, including due process and proportionality.

The importance of judicial oversight was further reinforced in the *Rosneft case*, where the Court clarified its jurisdiction to review the legality of restrictive measures adopted within the Common Foreign and Security Policy framework.[64] The judgment confirmed that, notwithstanding the political nature of sanctions, their application remains subject to legal scrutiny, thereby reinforcing the role of courts in ensuring consistent interpretation across Member States.

At the same time, national authorities operate within a more complex and multi-layered regulatory environment shaped by the interaction between sanctions and AML frameworks. Financial institutions must comply simultaneously with obligations arising from both regimes, including customer due diligence, transaction monitoring, and sanctions screening.[65] This exposes the practical limits of national supervisory capacity in ensuring consistent and effective oversight in practice.

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[62] TFEU (n 20) art 215.
[63] *Kadi* (n 31), paras 281–285 and 326–328.
[64] Case C–72/15 *Rosneft* EU:C:2017:236, paras 64–75.
[65] Directive (EU) 2015/849 (n 1), arts 13 and 18.

Reliance on national authorities as primary enforcers of EU sanctions exposes broader issues relating to coordination and accountability. While Member States retain primary responsibility for supervision and penalties, EU-level actors such as the European Commission contribute to the framework through guidance and monitoring activities.[66] Nevertheless, the absence of fully harmonised enforcement mechanisms means that divergences in national practice persist, particularly in cross-border context.

Within this regulatory framework, the role of national competent authorities can be understood as both essential and structurally constrained. On the one hand, they provide the institutional capacity necessary for the day-to-day application of sanctions. On the other hand, their operation within diverse legal and administrative systems contributes to fragmentation, which may weaken the overall coherence and credibility of the EU sanctions regime. This tension reflects the broader challenge of reconciling decentralised enforcement with the need for uniform application of EU law.

4.2 EU-Level Supervision and the Evolving Role of Union Institutions

The EU supervisory architecture governing anti-money laundering and sanctions compliance is not confined to national authorities, but also encompasses a growing role for Union-level institutions tasked with promoting consistency and coordination across Member States. While enforcement responsibilities formally remain decentralised, EU bodies play a central role in shaping supervisory practices, developing regulatory standards, and supporting a more coherent application of EU law.[67]

A central actor in this framework is the European Banking Authority (EBA), which has been entrusted with an expanded mandate in AML supervision. Under Regulation (EU) No 1093/2010, the EBA is responsible for developing technical standards, issuing guidelines, and fostering supervisory convergence among national authorities.[68] In addition, it contributes to identifying and addressing risks of money laundering and terrorist financing within the EU financial system, thereby reinforcing coordination across jurisdictions.

However, the EBA's powers remain primarily indirect, relying on soft law instruments and coordination mechanisms rather than direct supervisory authority. As a result, its ability to ensure consistent supervision across Member States remains limited, particularly where

[66] European Commission (n 47).
[67] European Commission (n 55).
[68] Regulation (EU) No 1093/2010 (n 60), arts 8(1)(b), 10, 15, 16, 29 and 30.

national approaches diverge. This constraint reflects the broader structural tension between national autonomy and the objective of achieving greater harmonisation within the EU supervisory framework.

The establishment of the Anti-Money Laundering Authority (AMLA) represents a significant institutional development aimed at addressing these structural constraints. Created by Regulation (EU) 2024/1620, AMLA introduces a new model of EU-level supervision by combining direct supervisory powers over selected high-risk financial institutions with indirect powers focused on coordinating national authorities.[69] This dual structure reflects an attempt to move beyond a purely decentralised system while maintaining the involvement of Member States in ongoing supervisory activities.

AMLA's mandate extends beyond direct supervision to include the development of technical standards, the facilitation of information exchange, and the resolution of disagreements between national supervisors. Through these functions, it is expected to contribute to enhanced supervisory convergence and a reduction in fragmentation across the EU. At the same time, its effectiveness will depend on its interaction with existing institutional actors, particularly the EBA and national competent authorities, within an already complex and multi-layered supervisory landscape.

The role of Union-level institutions has evolved alongside the broader legal framework governing sanctions. Although sanctions continue to fall primarily within the domain of the Common Foreign and Security Policy, EU institutions play a growing role in supporting their implementation through guidance, monitoring, and coordination activities. The case law of the Court of Justice confirms that, notwithstanding the political nature of sanctions, their application remains subject to legal scrutiny at EU level.

In *Rosneft*, the Court clarified its jurisdiction to review the legality of restrictive measures adopted within the Common Foreign and Security Policy framework, thereby reinforcing the role of judicial oversight in ensuring consistency in their application.[70] This is further complemented by the judgment in *Fulmen v Council*, where the Court emphasised that restrictive measures must be supported by sufficiently substantiated evidence and cannot rely on general or unverified allegations.[71] Together, these cases underscore the importance of

[69] Regulation (EU) 2024/1620 (n 4), arts 5(2)–(4), 6(1) and 7.
[70] *Rosneft* (n 64), paras 65 and 70–75.
[71] Case C-280/12 *P Fulmen v Council* EU:C:2013:775, paras 66–69.

judicial control as a mechanism for safeguarding the legality and coherence of sanctions within a multi-level supervisory system.

Despite these developments, the EU supervisory architecture remains characterised by a hybrid structure in which responsibilities are shared between multiple actors operating at different levels. While the strengthening of EU-level institutions has the potential to improve coordination and reduce fragmentation, it also introduces new challenges relating to institutional overlap, accountability, and the allocation of competences. In particular, the interaction between AMLA, the EBA, and national authorities highlights questions regarding the clarity of supervisory responsibilities and the effectiveness of multi-level governance arrangements.

4.3 Coordination and Fragmentation in the EU Supervisory Framework

The EU supervisory framework governing anti-money laundering and sanctions compliance is characterised by a complex interaction between national and Union-level actors, creating both opportunities for coordination and risks of fragmentation.[72] While the multi-level structure enables the incorporation of national expertise and regulatory flexibility, it also generates structural challenges in ensuring the consistent application and enforcement of EU law across Member States.

A key challenge arises from the absence of fully harmonised enforcement mechanisms in relation to EU sanctions. Although restrictive measures are adopted at the EU level, their implementation and enforcement remain largely dependent on national authorities.[73] This allocation of responsibilities results in variations in supervisory practices, differences in administrative capacity, and divergent interpretative approaches, all of which may undermine the uniform application of EU sanctions.

The practical implications of these structural challenges are clearly illustrated by recent EU sanctions adopted in response to Russia's military aggression against Ukraine. The unprecedented scope and speed of these measures have significantly increased the operational burden on national supervisory authorities and financial institutions. In particular, inconsistencies have emerged in the interpretation and application of key concepts such as asset freezing, beneficial ownership, and control. In practice, this has resulted in differing compliance

[72] European Commission (n 55), 4–5.
[73] TFEU (n 20) art 215; Council of the European Union (n 2).

expectations across Member States. Some authorities adopt broader and more proactive approaches to enforcement, while others rely on more cautious or formalistic interpretations, leading to an uneven and sometimes inconsistent application of sanctions across the Union.[74]

These divergences are particularly evident in the interpretation of beneficial ownership and control, where national authorities have adopted differing approaches to determining whether a person or entity falls within the scope of restrictive measures. Given the lack of uniform criteria, financial institutions are often required to make complex legal assessments, which increases the risk of both under-compliance and over-compliance. In practice, this has led some institutions to adopt conservative approaches, including the broad application of asset-freezing measures, in order to mitigate potential legal and reputational risks.

These inconsistencies are further compounded by variations in supervisory guidance and enforcement priorities across Member States. Given the lack of binding and detailed EU-wide interpretative standards, national competent authorities often rely on domestic administrative practices and risk assessments.[75] This may result in similar factual situations being treated differently across jurisdictions, thereby undermining the predictability and coherence of the EU sanctions regime.

The interaction between sanctions and AML obligations adds an additional layer of complexity. Financial institutions are required to integrate sanctions screening with customer due diligence and transaction monitoring processes, often under conditions of legal uncertainty.[76] This creates operational challenges for both institutions and supervisors, particularly where compliance expectations are not fully aligned across Member States. As a result, institutions may adopt more risk-averse strategies, including restricting or even terminating business relationships.

At the institutional level, coordination between national authorities and Union-level bodies remains limited. While institutions such as the European Commission and the European Banking Authority contribute to supervisory convergence through guidance and coordination mechanisms, their ability to ensure consistent enforcement outcomes is constrained by the limits of their mandates.[77] Coordination thus often depends on informal cooperation rather than

[74] European Commission (n 55), 3–5.
[75] Ibid.
[76] Directive (EU) 2015/849 (n 1), art 13(1)(a)–(d).
[77] Regulation (EU) No 1093/2010 (n 68), art 8(1)(a)–(c).

binding coordination structures, which may weaken the overall coherence of the supervisory framework and perpetuate inconsistencies in enforcement practices.

The establishment of the Anti-Money Laundering Authority (AMLA) seeks to address these shortcomings by strengthening coordination and enhancing supervisory convergence across Member States.[78] However, its effectiveness will depend on its capacity to operate within an already complex institutional framework and to reconcile differing national approaches.

The continued fragmentation gives rise to broader questions regarding accountability and the allocation of responsibilities within the EU supervisory framework. Where enforcement is primarily carried out at the national level, but legal rules are determined at the EU level, tensions may arise in relation to responsibility for compliance failures. This is particularly relevant in cross-border contexts, where financial institutions operate across multiple jurisdictions and are subject to differing supervisory expectations.

The EU supervisory framework is therefore best understood as a system in transition, in which efforts to enhance coordination and consistency continue to coexist with structural limitations inherent in a multi-level governance model. While recent developments, in particular the establishment of AMLA, represent an important step towards greater integration, they do not fully resolve the underlying tensions between national autonomy and the need for uniform application of EU law.

From a critical perspective, the persistence of fragmentation suggests that institutional reform alone may not be sufficient to achieve genuinely consistent enforcement outcomes. Rather, greater clarity in interpretative standards, combined with more effective mechanisms of coordination, appears necessary to address the practical challenges identified above. In this regard, the evolving supervisory framework invites further reflection on whether the current balance between decentralised implementation and EU-level oversight remains sustainable in the long term.

5. Liability of Credit Institutions in the EU Sanctions and AML Framework

The increasing complexity of the EU sanctions and anti-money laundering framework has significantly expanded the compliance obligations imposed on credit institutions. As financial institutions operate at the intersection of EU-level regulation and national enforcement

[78] Regulation (EU) 2024/1620 (n 4), art 1(3)(c)–(d).

mechanisms, they are required to navigate a regulatory environment characterised by legal uncertainty, divergent supervisory expectations, and growing compliance risks.[79]

Within this context, the question of liability has assumed particular importance. Credit institutions may face administrative and, in certain jurisdictions, criminal consequences for failures relating to sanctions compliance,[80] customer due diligence,[81] or transaction monitoring obligations. At the same time, the fragmented nature of enforcement across Member States creates additional challenges, particularly for institutions operating across multiple jurisdictions.

This chapter examines the legal foundations and practical implications of liability within the EU sanctions and AML framework, with particular attention given to the impact of fragmented supervisory and enforcement practices on credit institutions.

5.1 Legal Basis of Liability

The liability of credit institutions within the EU sanctions and anti-money laundering framework is based on a combination of directly applicable EU rules, harmonised EU legislation, and national enforcement mechanisms. This structure reflects the evolving design of EU financial regulation, in which substantive obligations are progressively defined at Union level, while the practical enforcement of those obligations often remains dependent on national authorities. In the context of sanctions, the legal basis is primarily found in Article 215 TFEU, which enables the adoption of restrictive measures through EU regulations that are binding and directly applicable in all Member States.[82]

For credit institutions, this means that sanctions obligations do not operate merely as political instruments of external action, but as concrete legal duties requiring operational implementation. They are required to identify designated persons or entities, implement asset-freezing measures where applicable, prevent the direct or indirect making available of funds or economic resources to listed persons, and report relevant information to competent authorities. A failure to implement these obligations may therefore expose the institution to enforcement action under national penalty regimes, even though the underlying obligations originate at EU

[79] European Commission (n 55), 4–5.
[80] Directive (EU) 2015/849 (n 1), arts 58–62.
[81] Directive (EU) 2015/849 (n 1), arts 13–18.
[82] TFEU (n 20) art 215.

level. This consequence is a layered liability structure in which the source of the obligation is European, while the sanction for breach is usually determined and applied nationally.[83]

The anti-money laundering framework operates differently, but gives rise to comparable compliance risks. Directive (EU) 2015/849 requires Member States to ensure that obliged entities, including credit institutions, apply customer due diligence measures, monitor business relationships, identify beneficial owners, and report suspicious transactions.[84] Although the Directive must be implemented through national law, it establishes a harmonised framework of obligations that shapes the conduct expected of financial institutions across the Union. Liability can result from failures by a credit institution to maintain adequate internal controls, properly identify or verify customers, or detect and report suspicious activity.

The interaction between sanctions compliance and AML obligations is particularly important because the two regimes increasingly overlap in practice. Sanctions screening depends on accurate customer information, beneficial ownership data, and effective transaction monitoring, all of which also constitute central elements of AML compliance.[85] As a result, effective sanctions compliance is often dependent on the robustness of AML controls and monitoring mechanisms. Conversely, uncertainty surrounding the interpretation of sanctions measures may also influence the way institutions develop and implement AML controls. The legal basis of liability is therefore not confined to isolated breaches of a single rule, but emerges from the interaction between multiple compliance regimes.

The Court of Justice has recognised the importance of preventive obligations within the AML framework. In *Ordre des barreaux francophones et germanophone*, the Court accepted that obligations imposed by anti-money laundering legislation may restrict certain professional activities, provided that they pursue legitimate objectives and respect fundamental rights.[86] Although the case concerned lawyers rather than credit institutions, it is relevant because it confirms that AML obligations form part of a broader preventive regulatory model, in which private actors are required to assist in protecting the integrity of the financial system. For credit institutions, this preventive approach is even more pronounced, given their central role in processing transactions and detecting financial crime risks.

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[83]TFEU (n 20) art 215; Council of the European Union (n 2).

[84] Directive (EU) 2015/849 (n 1), arts 13–14, 33.

[85] Directive (EU) 2015/849 (n 1), art 13(1)(a), (b), (d).

[86] Case C-305/05 *Ordre des barreaux francophones et germanophone and Others v Conseil des ministres* EU:C:2007:383, para 37.

The preventive nature of AML obligations was further considered in *Safe Interenvíos,* where the Court addressed the relationships between AML requirements and the freedom to provide services.[87] The judgment confirms that Member States may impose measures aimed at preventing money laundering and terrorist financing, provided that such measures comply with EU principles, including proportionality.[88] This is significant for liability because it shows that compliance obligations cannot be assessed only as administrative burdens, they must also be understood as part of a regulatory balance between effectiveness, market freedoms, and legal certainty.

A similar balance can also be observed in the case law relating to restrictive measures. While sanctions are adopted in pursuit of foreign policy and security objectives, their application remains subject to judicial control and fundamental rights standards. Cases such as *Kadi* and *Rosneft* demonstrate that EU sanctions must operate within the EU legal order and cannot be separated from rule of law requirements.[89] For credit institutions, this matters because liability for sanctions breaches depends not only on whether an institution complied with a formal prohibition, but also on whether the applicable rules were sufficiently clear, foreseeable, and capable of consistent implementation.

The legal basis of liability is further complicated by the fact that EU law does not fully harmonise all consequences of non-compliance. While the EU framework establishes core obligations, Member States retain an important role in determining penalties, enforcement procedures, and institutional responsibilities. The lack of fully harmonised enforcement mechanisms may therefore produce divergent liability outcomes, particularly in cross-border situations involving supervision by multiple national authorities. Consequently, credit institutions must navigate obligations rooted in EU law while managing liability risks arising under different national enforcement regimes.

Recent legislative developments seek to address some of these difficulties. The new EU AML package, including Regulation (EU) 2024/1624 and Directive (EU) 2024/1640, moves the EU framework towards greater harmonisation by introducing directly applicable rules for obliged entities and reinforcing supervisory coordination.[90] The establishment of AMLA under

[87] Case C-235/14 *Safe Interenvíos SA v Liberbank SA and Others* EU:C:2016:154.
[88] *Safe Interenvíos* (n 87), paras 100–111.
[89] *Kadi* (n 31), paras 281–285, 326–327; *Rosneft* (n 64), paras 69–75.
[90] Regulation (EU) 2024/1624 (n 5); Directive (EU) 2024/1640 of the European Parliament and of the Council on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

Regulation (EU) 2024/1620 also reflects an attempt to reduce fragmentation and improve the consistency of supervisory expectations.[91] Nevertheless, these reforms do not eliminate the importance of national enforcement. Credit institutions will continue to operate within a multi-level system in which EU rules, national supervision, and institutional guidance interact.

From a critical perspective, the legal basis of liability in this area is therefore both robust and structurally complex. It is robust because EU law provides a dense framework of obligations relating to sanctions, AML controls, customer due diligence, and reporting. However, it is structurally complex because enforcement remains distributed across multiple levels, and because liability may arise from failures in systems, procedures, interpretation, or reporting. This makes the position of credit institutions particularly demanding, as they are expected not only to comply with legal obligations, but also to convert broad regulatory expectations into operational decisions under conditions of uncertainty.

5.2 Types of Liability and Enforcement Mechanisms

The practical consequences of the EU sanctions and anti-money laundering framework become most visible in the enforcement mechanisms applicable to credit institutions. In practice, financial institutions may face administrative, civil, and, in certain jurisdictions, criminal consequences for failures relating to sanctions compliance and AML obligations. The nature and severity of such liability depend not only on EU rules, but also on the national supervisory and penalty regimes through which those rules are implemented.[92]

Administrative liability constitutes the predominant mechanism through which compliance failures are addressed within the sanctions and AML frameworks. National competent authorities are empowered to impose financial penalties, issue public statements, adopt supervisory measures, and, where necessary, restrict certain business activities in cases of non-compliance.[93] Under Directive (EU) 2015/849, Member States are required to ensure that sanctions imposed for breaches of AML obligations are effective, proportionate, and dissuasive.[94] However, despite the existence of harmonised EU obligations, considerable divergence persists among Member States regarding the nature and severity of applicable penalties.

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[91] Regulation (EU) 2024/1620 (n 4).
[92] TFEU (n 20) art 215; Directive (EU) 2015/849 (n 1), art 58.
[93] Directive (EU) 2015/849 (n 1), art 59(2).
[94] Directive (EU) 2015/849 (n 1), art 58(1).

Such divergences have significant practical implications for credit institutions operating across multiple jurisdictions. While the underlying compliance obligations may formally derive from the same EU framework, institutions operating across multiple jurisdictions may face practical challenges arising from differences in national implementation and supervisory practices.[95] This contributes to legal uncertainty and complicates the development of consistent compliance strategies within cross-border banking groups.

The preventive nature of the AML and sanctions framework further expands the scope of liability exposure. Supervisory authorities increasingly focus not only on completed violations, but also on the adequacy of internal compliance systems designed to identify and mitigate risks at an early stage. Consequently, institutions may incur liability as a result of deficiencies in customer due diligence procedures, transaction monitoring systems, beneficial ownership verification, or internal reporting mechanisms, even where no direct sanctions breach or money laundering offence has ultimately occurred.[96]

The broad scope of preventive obligations has been recognised in the case law of the Court of Justice. In Jyske Bank Gibraltar, the Court confirmed that Member States may impose extensive monitoring and reporting obligations on financial institutions for the purpose of combating money laundering and terrorist financing.[97] The judgment demonstrates the degree to which financial institutions are expected to assume an active role in the prevention of financial crime, thereby reinforcing the regulatory expectation that institutions maintain robust internal compliance structures capable of identifying complex risks.

At the same time, the expansion of preventive compliance obligations brings into sharper focus issues of proportionality and legal certainty. Financial institutions frequently operate under conditions in which regulatory expectations are not always clearly defined, particularly in relation to sanctions implementation and beneficial ownership assessments. In practice, institutions often respond by adopting highly cautious approaches designed to minimise regulatory risk. This may include enhanced screening measures, restrictive interpretations of ownership and control, or the termination of business relationships perceived as presenting elevated compliance risks.[98]

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[95] Council of the European Union (n 48), 16–17, 35.
[96] Robin Booth, Simon Farrell, David Harvey, John Inglis and Robin King, *Money Laundering Law and Regulation: A Practical Guide* (Oxford University Press 2011), paras 9.51, 9.128–9.131 and 9.142–9.143, pp 213, 229–232.
[97] Case C-212/11 *Jyske Bank Gibraltar Ltd v Administración del Estado* EU:C:2013:270, paras 49–55, 61.
[98] European Commission (n 55), 25.

Such practices are closely associated with the phenomenon of over-compliance. Although over-compliance is generally motivated by efforts to reduce regulatory and reputational risks, it may also produce significant consequences for customers and counterparties, particularly where legitimate economic activity is disrupted. This tension reflects one of the central structural difficulties within the EU supervisory framework, as institutions are expected to ensure effective compliance while simultaneously respecting principles of proportionality, legal certainty, and fair treatment.

Judicial review has played an important role in addressing these tensions. In *Bank Mellat v Council*, the General Court emphasised that restrictive measures adopted by EU institutions remain subject to effective judicial scrutiny and must be suported by adequate evidence and procedural safeguards.[99] Although the case concerned the legality of EU sanctions measures themselves, its reasoning is also relevant from the perspective of financial institutions, as it confirms that enforcement measures affecting economic actors cannot be detached from broader rule of law requirements.

The most severe consequences within the sanctions and AML framework arise in the form of criminal liability, though its availability varies considerably between Member States. The scope of criminal liability and the conditions under which criminal sanctions may be imposed continue to be shaped to a significant extent by national legal systems, reflecting the limited harmonisation of criminal enforcement standards across the European Union.[100] However, the absence of fully harmonised criminal enforcement standards at EU level contributes to further fragmentation, particularly in cross-border situations involving multiple supervisory and investigative authorities.

The complexity of liability exposure is further reinforced by the increasing emphasis placed on internal governance and managerial accountability. Regulatory authorities now expect senior management and compliance officers to play an active role in ensuring the effectiveness of institutional compliance systems.[101] More broadly, EU financial supervision has evolved towards a governance-based model in which liability risks are connected not only to specific transactions, but also to the effectiveness of institutional controls and risk-management structures.

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[99] *Bank Mellat* (n 45), paras 100–107.
[100] Valsamis Mitsilegas, *EU Criminal Law* (2nd edn, Hart Publishing 2022) 101–103.
[101] Regulation (EU) 2024/1620 (n 4), recital 29 and art 22(9).

Recent institutional reforms seek to reduce some of these structural weaknesses. The establishment of the Anti-Money Laundering Authority (AMLA) is intended to strengthen supervisory coordination and promote greater consistency in enforcement practices across the Union.[102] Nevertheless, the effectiveness of the system will continue to depend largely on cooperation between EU-level bodies and national authorities, as well as on the ability of financial institutions to adapt to evolving and sometimes divergent supervisory expectations.

From a critical perspective, the current enforcement framework places credit institutions in an exceptionally demanding position. Institutions are expected not only to comply with extensive regulatory obligations, but also to interpret evolving supervisory expectations across multiple jurisdictions while operating under conditions of legal uncertainty. In practice, compliance therefore extends beyond a purely legal obligation and operates as a broader exercise in institutional risk management and regulatory judgment.

5.3 Cross-Border Liability and Supervisory Fragmentation

The cross-border nature of contemporary financial activity further broadens the liability exposure of credit institutions operating within the EU sanctions and anti-money laundering framework. Financial institutions frequently provide services across multiple jurisdictions while remaining subject to supervision by several national competent authorities, each applying EU obligations through different administrative practices and supervisory priorities. Although the substantive legal basis of sanctions and AML obligations derives from Union law, differences in supervisory practices and enforcement approaches among Member States continue to create challenges for the consistent application of those obligations across the Union.[103]

A central challenge for cross-border institutions lies in the interpretation of concepts that are not comprehensively defined within EU legislation. This is particularly evident in relation to beneficial ownership assessments, ownership and control structures, and the determination of whether funds or economic resources are indirectly made available to designated persons. In practice, national authorities have adopted differing approaches regarding the level of due diligence expected from institutions, the assessment of complex corporate structures, and the

[102] Regulation (EU) 2024/1620 (n 4), recital 10 and art 5.
[103] Regulation (EU) 2024/1620 (n 4), recital 10; art 53(1), (3)(b).

interpretation of control relationships.[104] Consequently, conduct regarded as compliant in one Member State may attract supervisory criticism or regulatory intervention in another.

Differences in national supervisory approaches contribute to significant operational and legal uncertainty for financial institutions operating across multiple jurisdictions. Institutions must frequently balance differing supervisory expectations with the need to maintain consistent group-wide compliance systems. The difficulty becomes especially pronounced where banking groups operate through subsidiaries and branches located in several Member States, each subject to distinct supervisory cultures and regulatory approaches. In response, institutions frequently adopt highly cautious compliance strategies designed to reduce potential supervisory and liability risks. These strategies may include more extensive transaction screening measures, restrictive interpretations of ownership and control relationships, or the termination of business relationships perceived as presenting elevated compliance exposure.[105]

Cross-border institutions are especially vulnerable to risk-averse compliance practices arising from inconsistent supervisory expectations across Member States. In situations characterised by legal uncertainty, institutions frequently adopt restrictive approaches designed to minimise potential supervisory and liability risks, especially where several national authorities may assess the same conduct differently.[106] In practice, this may result in delayed transactions, enhanced screening measures, or the termination of business relationships considered to present elevated compliance exposure.[107] Such practices highlight the continuing tension between effective compliance, proportionality, and legal certainty within the EU supervisory framework.

Judicial review has played an important role in addressing some of these tensions. In *Bank Mellat v Council*, the General Court reaffirmed that restrictive measures adopted by EU institutions remain subject to effective judicial review and compliance with fundamental procedural guarantees.[108] Despite focusing primarily on the legality of sanctions measures imposed by the EU institutions themselves, the case remains relevant from the perspective of financial institutions because it confirms that measures affecting economic actors cannot operate independently of broader rule of law requirements. Similarly, in *Kadi and Al Barakaat*,

[104] European Commission, 'Commission Consolidated FAQs on the Implementation of Council Regulation (EU) No 833/2014 and Council Regulation (EU) No 269/2014' (4 May 2022), Q11, p 52; Directive (EU) 2015/849 (n 1), art 13(1)(b).
[105] Directive (EU) 2015/849 (n 1), arts 13(1)(b), 13(1)(d) and 14(4).
[106] Regulation (EU) 2024/1620 (n 4), recital 29, arts 12 and 40.
[107] Directive (EU) 2015/849 (n 1), arts 14(4), 18(1)–(2).
[108] *Bank Mellat* (n 45), paras 100–107.

the Court of Justice emphasised that even measures adopted in pursuit of international security objectives must remain compatible with fundamental rights and judicial safeguards within the EU legal order.[109]

From the perspective of credit institutions, the significance of these judgments lies in the fact that liability exposure often develops in areas where legal expectations remain insufficiently defined in advance. Institutions are expected not only to comply with formal legal obligations, but also to demonstrate that internal compliance systems, governance structures, and risk-management procedures are capable of identifying and preventing complex financial crime risks. Liability may therefore result not only from direct sanctions breaches or failures to report suspicious activity, but also from deficiencies in institutional organisation, customer due dilligence procedures, transaction monitoring systems, or internal reporting mechanisms.[110]

The interaction between AML obligations and sanctions compliance further complicates cross-border supervision. Effective sanctions screening is closely linked to accurate customer identification, beneficial ownership verification, and continuous transaction monitoring, all of which also constitute central elements of AML compliance. Weaknesses identified within AML systems may therefore simultaneously expose institutions to sanctions-related liability risks.[111] At the same time, uncertainty surrounding the interpretation of sanctions obligations may influence the manner in which institutions design and implement AML controls, particularly in relation to high-risk customers and cross-border transactions.

A further difficulty stems from the multi-level structure of EU supervision. While EU institutions establish the substantive framework governing sanctions and AML obligations, responsibility for supervision and compliance oversight continues to rest largely with national authorities. Coordination between supervisory bodies has historically relied primarily on guidelines, supervisory convergence mechanisms, and information exchange facilitated by the European Banking Authority, rather than on fully centralised supervisory structures.[112] Consequently, institutions operating across multiple jurisdictions may be required to navigate differing supervisory expectations and inconsistent regulatory approaches.

Recent institutional reforms seek to reduce some of these structural weaknesses. The establishment of the Anti-Money Laundering Authority (AMLA) is intended to stregthen

[109] *Kadi* (n 31), paras 343–353.
[110] Directive (EU) 2015/849 (n 1), arts 13(1)(d), 33(1)(a) and 45(1).
[111] Directive (EU) 2015/849 (n 1), arts 45 and 46.
[112] Regulation (EU) No 1093/2010 (n 68), arts 16, 29–31.

supervisory coordination and promote greater consistency in supervisory practices across the Union.[113] Nevertheless, the effectiveness of the framework will continue to depend largely on cooperation between Union-level bodies and national authorities, as well as on the ability of financial institutions to adapt to evolving and sometimes divergent supervisory expectations.

From a broader analytical perspective, the persistence of fragmentation within the EU supervisory framework demonstrates that liability in the sanctions and AML field can no longer be understood solely through the lens of isolated legal breaches. Instead, liability increasingly reflects the capacity of institutions to manage regulatory uncertainty, maintain effective governance structures, and implement complex compliance systems across multiple jurisdictions. Credit institutions are therefore placed in a particularly demanding position, as they are expected not only to comply with detailed legal obligations, but also to function as integral actors within the broader system of financial crime prevention and regulatory risk management.

5.4 Compliance Challenges and Over-Compliance in the EU Sanctions and AML Framework

The expansion of sanctions and anti-money laundering obligations within the European Union has substantially increased the operational and legal pressures imposed on credit institutions. Beyond the formal requirement to comply with legislative obligations, financial institutions are now expected to maintain sophisticated internal compliance structures capable of identifying complex financial crime risks across cross-border operations. The resulting regulatory environment has transformed compliance from a narrowly regulatory function into a broader system of institutional risk governance. In practice, liability exposure frequently depends not only on whether a specific breach has occurred, but also on whether institutions are considered to have implemented sufficiently effective preventive controls and risk-management procedures.[114]

The practical application of the preventive EU sanctions and AML framework is complicated by the fact that many compliance obligations are expressed in broad and flexible regulatory terms. Financial institutions are required to conduct risk-based customer due diligence, assess beneficial ownership structures, monitor transactions, identify suspicious patterns of activity, and determine whether funds or economic resources may indirectly benefit designated

[113] Regulation (EU) 2024/1620 (n 4), arts 5(1)(g), 7(1) and 30(1).
[114] Directive (EU) 2015/849 (n 1), arts 8(1), 8(3)–(5) and 13; Regulation (EU) 2024/1620 (n 4), art 5(2)(b).

persons.[115] Such assessments require institutions to interpret complex financial and corporate structures and changing supervisory expectations in areas where legal standards remain insufficiently precise. Consequently, institutions may be exposed to liability where supervisory authorities subsequently determine that internal compliance measures were inadequate to identify or mitigate relevant risks.

The interpretation of ownership and control relationships within sanctions implementation remains a significant source of legal uncertainty for financial institutions. EU sanctions regulations prohibit not only the direct provision of funds to designated persons, but also the indirect making available of economic resources to entities owned or controlled by sanctioned individuals.[116] However, the assessment of 'control' is not always governed by precise legal criteria. In practice, supervisory authorities may adopt different approaches regarding indicators of control, influence over corporate decision-making, or the relevance of minority shareholdings and informal economic relationships. The absence of fully uniform interpretative standards has created considerable uncertainty for institutions operating across several Member States.[117]

These uncertainties have contributed to the development of highly cautious compliance practices commonly described as over-compliance or de-risking. Financial institutions tend to adopt restrictive internal policies designed to minimise potential regulatory exposure, particularly in areas associated with elevated sanctions or money laundering risks. Such measures may include extensive transaction screening, enhanced verification procedures, restrictions on particular categories of cross-border transfers, or the termination of customer relationships considered commercially or legally sensitive.[118] While these practices are often motivated by legitimate concerns regarding regulatory liability and reputational harm, they may also produce significant consequences for lawful economic activity and financial inclusion.

The consequences of over-compliance become most apparent in cross-border banking relationships and international payment services. Institutions may decline transactions connected to jurisdictions perceived as presenting elevated compliance risks even where no formal sanctions prohibition exists. Similarly, customers operating through complex ownership

[115] Directive (EU) 2015/849 (n 1), arts 13, 18, 30 and 33.
[116] Council Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2014] OJ L78/6, art 2.
[117] European Commission (n 104), Q43 and Q46.
[118] European Commission (n 55), 25; Directive (EU) 2015/849 (n 1), arts 13 and 18 .

structures or engaging in business activities involving high-risk regions may experience delays, account closures, or enhanced monitoring obligations despite the absence of evidence of unlawful conduct. The cumulative effect of these practices may extend beyond individual commercial decisions and affect access to financial services for customers perceived as presenting elevated compliance risks.[119]

Judicial review has played an important role in defining the legal limits of restrictive compliance measures within the EU legal order. In *Bank Mellat v Council*, the General Court reaffirmed that sanctions measures adopted by EU institutions remain subject to effective judicial protection, rigorous review of the evidentiary basis for listings, and compliance with procedural safeguards.[120] The judgment confirmed that restrictive measures affecting economic actors remain connected to sufficiently precise legal and evidential foundations. Likewise, in *Kadi and Al Barakaat*, the Court of Justice emphasised that even measures pursuing international security objectives must comply with fundamental rights and procedural safeguards recognised within EU law.[121] While these cases concerned the legality of sanctions adopted by EU institutions, their reasoning also carries broader implications for the compliance obligations imposed on financial institutions.

The principle of proportionality is equally significant in the AML framework. Preventive obligations imposed on credit institutions must pursue legitimate objectives while remaining compatible with legal certainty and fair treatment of customers. In *Jyske Bank Gibraltar*, the Court of Justice recognised that Member States may impose extensive monitoring and reporting duties for the purpose of combating money laundering and terrorist financing.[122] At the same time, the judgment confirms that preventive obligations imposed on financial institutions must remain connected to clearly identifiable regulatory objectives and cannot operate without meaningful legal limits. Consequently, institutions are required to reconcile intensive risk prevention measures with principles of proportionality and procedural fairness.

Recent legislative reforms attempt to address some of these structural difficulties through greater harmonisation and supervisory coordination. The establishment of the Anti-Money Laundering Authority (AMLA) under Regulation (EU) 2024/1620 seeks to strengthen supervisory convergence and reduce inconsistencies between national approaches to AML

[119] Booth and others (n 96), paras 9.34–9.38.
[120] *Bank Mellat* (n 45), paras 100–105.
[121] *Kadi* (n 31), paras 336–353.
[122] *Jyske Bank Gibraltar* (n 97), paras 49, 60–62.

oversight.[123] In parallel, the new AML package introduces more directly applicable obligations intended to reduce fragmentation arising from divergent national implementation measures. Nevertheless, the effectiveness of these reforms will continue to depend substantially on the ability of Union-level and national authorities to develop coherent supervisory expectations capable of providing legal certainty for financial institutions operating across multiple jurisdictions.

Viewed from an analytical perspective, the contemporary EU sanctions and AML framework places credit institutions in an exceptionally demanding position. Institutions are expected not only to comply with complex legal obligations, but also to anticipate evolving regulatory expectations, interpret ambiguous legal concepts, and manage substantial reputational and supervisory risks across different jurisdictions. Liability therefore no longer arises exclusively from clearly identifiable legal breaches. Instead, it is now closely linked to the perceived adequacy of institutional governance, internal controls, risk-management systems, and compliance culture. In this respect, preventive obligations have transformed financial institutions into integral actors within the wider system of financial crime prevention and regulatory risk management.

5.5 Balancing Effective Enforcement and Legal Certainty

The evolution of the EU sanctions and anti-money laundering framework reflects a gradual movement away from reactive enforcement and towards preventive financial supervision. Credit institutions are no longer expected merely to identify completed violations of sanctions or money laundering rules. Instead, they are now expected to anticipate potential risks, assess complex ownership and transactional structures, and maintain internal compliance mechanisms capable of preventing unlawful activity before it materialises. This preventive logic has become especially visible following the expansion of EU restrictive measures adopted in response to Russia's aggression against Ukraine, where financial institutions have assumed a central role in identifying sanctioned persons, monitoring transactions, and preventing sanctions circumvention.[124]

At the same time, the growing reliance on preventive compliance obligations has generated significant concerns regarding legal certainty and the limits of institutional responsibility. In practice, financial institutions are often required to make complex assessments concerning

[123] Regulation (EU) 2024/1620 (n 4), recitals 10, 33 and art.1(3)(d).
[124] Council Regulation (EU) No 269/2014 (n 117).

ownership, control, indirect economic benefit, and the identification of high-risk customers in situations where regulatory expectations are not always fully harmonised or clearly defined. The absence of consistently applied interpretative standards may expose institutions to substantial liability risks even where they attempt to act in good faith and implement extensive compliance measures. This often leads institutions to prioritise restrictive compliance strategies designed to minimise supervisory and liability risks over a narrower assessment focused solely on clearly identifiable legal violations.

The practical effects of this development are particularly visible in the area of de-risking and over-compliance. Financial institutions may impose additional restrictions on transactions, terminate customer relationships, or refuse services connected to jurisdictions, sectors, or corporate structures perceived as presenting elevated compliance risks. Such measures are often motivated by concerns relating to supervisory scrutiny, reputational harm, and the potentially severe consequences associated with sanctions or AML failures. Nevertheless, restrictive compliance practices may also produce unintended effects for legitimate economic activity, especially in cross-border financial services and international payment systems.[125] In some situations, customers and businesses may experience exclusion from financial services despite the absence of evidence indicating unlawful conduct.

The problem is further complicated by the fragmented nature of supervision within the European Union. Although sanctions and AML obligations are largely harmonised at EU level, their practical supervision and implementation continue to reflect national administrative approaches. The absence of sufficiently consistent supervisory practice across the Union continues to hinder the development of effective compliance structures within cross-border banking groups. This is particularly relevant in the context of ownership and control assessments, where national authorities may apply different thresholds or attach varying significance to indicators of indirect influence and beneficial ownership.[126] This requires institutions to navigate differing supervisory expectations while maintaining coherent group-wide compliance systems.

The evolving relationship between preventive enforcement and legal certainty has been substantially clarified through the case law of the EU courts. In *Kadi and Al Barakaat*, the Court of Justice reaffirmed that measures pursuing international security objectives must remain

[125] Booth and others (n 96), paras 9.34–9.38.
[126] European Commission (n 104), Q43.

compatible with fundamental rights and effective judicial protection.[127] Similarly, the judgment in *Bank Mellat v Council* demonstrates that restrictive measures adopted in pursuit of security objectives remain subject to judicial scrutiny and cannot be insulated from fundamental procedural guarantees and rule of law requirements.[128] Even though the judgments concerned sanctions measures adopted at EU level, the legal principles articulated by the Court remain directly relevant to the broader compliance responsibilities of financial institutions. In particular, the case law demonstrates that preventive objectives cannot justify unrestricted interference with legal certainty, procedural fairness, or proportionality.

The growing complexity of sanctions implementation has also increased concerns regarding the use of sophisticated corporate and financial structures designed to evade restrictive measures. The expansion of Russia-related sanctions has led to increased regulatory scrutiny of intermediary entities, cross-border payment arrangements, and corporate structures potentially connected to circumvention.[129] The rapid expansion of sanctions measures has exposed structural weaknesses in the consistency and predictability of compliance supervision across the Union. At the same time, it has highlighted the growing importance of coordinated interpretative guidance capable of reducing legal uncertainty for financial institutions.

While recent legislative reforms seek to promote greater supervisory consistency across the Union, structural difficulties are unlikely to disappear entirely through institutional reform alone.[130] Differences in national administrative practice, varying approaches to risk assessment, and the discretionary nature of preventive supervision continue to create uncertainty for financial institutions operating across several jurisdictions. Even within a more harmonised regulatory framework, institutions will remain responsible for interpreting complex legal and commercial realities under conditions that do not always permit clear or uniform compliance outcomes.

Taken together, these developments demonstrate that the effectiveness of the EU sanctions and AML framework depends not only on the expansion of preventive obligations, but also on the ability of the legal system to provide sufficient clarity, consistency, and procedural safeguards. Financial institutions are expected to operate within an increasingly complex regulatory

[127] *Kadi* (n 31), paras 336–353.
[128] *Bank Mellat* (n 45), paras 100–107.
[129] European Commission (n 104), sections on sanctions circumvention, enhanced due diligence and ownership and control structures.
[130] Regulation (EU) 2024/1620 (n 4), recitals 2, 5 and 10.

environment characterised by evolving sanctions measures, extensive compliance expectations, and heightened supervisory scrutiny. The continuing challenge for the European Union therefore lies in maintaining an effective system of financial crime prevention without undermining legal certainty, proportionality, and the practical accessibility of financial services within the internal market.

5.6 Divergent Enforcement Practices and Institutional Accountability Across Member States

The question of liability cannot be fully assessed without considering how sanctions and AML obligations are enforced in practice across Member States. Although EU law establishes a common regulatory framework, the practical response to compliance failures remains shaped by national supervisory cultures, administrative procedures, prosecutorial discretion, and domestic penalty regimes. This gives rise to an important distinction between the existence of harmonised obligations and the practical functioning of liability mechanisms. For credit institutions, the legal risk does not arise only from the content of EU rules, but also from the manner in which national authorities interpret, investigate, and sanction failures in compliance systems.[131]

Administrative enforcement has become the most visible form of institutional accountability in the AML field. Directive (EU) 2015/849 requires Member States to ensure that breaches of AML obligations are subject to effective, proportionate, and dissuasive sanctions.[132] However, the Directive does not eliminate differences in national enforcement practice. Member States retain discretion in determining the procedural form of investigations, the level of penalties, the role of settlements, and the relationship between administrative and criminal consequences. Accordingly, comparable compliance deficiencies may be assessed differently by national authorities, leading to divergent enforcement outcomes across Member States.

Recent AML enforcement cases reveal the extent to which enforcement practice remains fragmented across Member States. In the Netherlands, ING accepted a settlement of EUR 775 million following serious and structural shortcomings in money laundering prevention.[133] ABN AMRO later accepted a settlement of EUR 480 million in relation to long-standing

[131] Directive (EU) 2015/849 (n 1), arts 58–60; Regulation (EU) 2024/1620 (n 4), arts 54(1) and recital 10.
[132] Directive (EU) 2015/849 (n 1), art 59.
[133] Netherlands Public Prosecution Service, 'ING Pays EUR 775 Million Due to Serious Shortcomings in Money Laundering Prevention' (4 September 2018).

shortcomings under the Dutch AML/CTF framework.[134] These cases indicate that national authorities are prepared to impose substantial financial settlements where compliance weaknesses are considered structural rather than isolated. From the perspective of institutional liability, this confirms that banks may face serious consequences not only for individual suspicious transactions, but also for failures in the design and operation of their preventive compliance systems.

A different example can be seen in the Swedish enforcement response to Swedbank. The Swedish Financial Supervisory Authority issued a warning and imposed an administrative fine of SEK 4 billion for serious deficiencies in the bank's work to combat money laundering.[135] The case is important because it shows how supervisory authorities may use administrative sanctions to address governance and risk-management failures within a cross-border banking group. It also underlines the close connection between AML liability and the quality of internal oversight, the effectiveness of group-level controls, and the ability of senior management to ensure that compliance risks are properly identified and escalated.

The Danske Bank matter provides a particularly important example of the difficulties associated with cross-border supervision. The money laundering concerns connected to Danske Bank's Estonian branch raised difficult questions regarding the allocation of supervisory responsibility between home and host authorities. The European Banking Authority opened a breach of Union law investigation concerning the Danish and Estonian supervisory authorities, although its Board of Supervisors ultimately rejected a proposal for a breach of Union law recommendation.[136] This example is analytically significant because it does not only concern the liability of a single institution. It also exposes structural limitations within the supervisory architecture itself, particularly where risks emerge in one jurisdiction while the relevant institution remains embedded in a wider cross-border banking group.

Collectively, these examples indicate that institutional liability in the EU AML framework is not limited to the formal breach of a specific legal provision. In practice, authorities place growing emphasis on whether the institution maintained an adequate compliance architecture, whether internal controls were proportionate to the risk profile of the business, and whether

[134] Netherlands Public Prosecution Service, 'ABN AMRO Pays EUR 480 Million on Account of Serious Shortcomings in Money Laundering Prevention' (19 April 2021).
[135] Swedish Financial Supervisory Authority, 'Swedbank Receives a Warning and an Administrative Fine of SEK 4 Billion' (19 March 2020).
[136] European Banking Authority, 'EBA Closes Investigation into Possible Breach of Union Law by Danish and Estonian Supervisory Authorities' (16 April 2019).

governance structures allowed risks to be detected and addressed in time. This approach reflects the preventive logic of EU financial regulation, but it also raises difficult questions concerning predictability. The broader the assessment of institutional systems becomes, the more important it is that supervisory expectations are communicated clearly and applied consistently.

The position is even more complex in the sanctions field. EU restrictive measures are adopted at Union level and are directly applicable, but penalties for breaches remain largely determined by Member States. Accordingly, the same EU sanctions obligation may operate within different national penalty structures, investigatory practices, and institutional frameworks. For credit institutions operating across several jurisdictions, this creates a layered compliance environment in which sanctions screening must be aligned not only with EU law, but also with national enforcement expectations.[137]

Variations in supervisory and enforcement practice continue to complicate the operation of cross-border banking groups within the EU regulatory framework. A cross-border banking group may need to maintain a single internal sanctions and AML compliance framework while responding to different national supervisory approaches. One authority may focus on transaction monitoring and internal reporting, another on beneficial ownership verification, and another on governance or senior management accountability. Such variation does not necessarily mean that the EU framework is ineffective, but it does show that harmonisation at the level of substantive obligations does not automatically produce uniform enforcement outcomes.

The establishment of AMLA is intended to address some of these weaknesses by strengthening supervisory convergence and improving coordination between national authorities.[138] Nevertheless, institutional reform alone is unlikely to remove all differences in enforcement practice. National authorities will continue to play a central role in supervision, investigation, and sanctioning, particularly where local facts, domestic procedures, and national penalty regimes remain relevant. The key challenge is therefore not simply to centralise supervision, but to ensure that national enforcement practices operate within a more predictable and coherent EU framework.

[137] TFEU (n 20) art 215; Council Regulation (EU) No 269/2014 (n 117), art 15(1).
[138] Regulation (EU) 2024/1620 (n 4), recitals 5 and 10.

At a structural level, divergent enforcement practice remains one of the principal reasons why liability continues to present significant difficulties for credit institutions operating within the EU framework. Banks are expected to comply with harmonised EU obligations, yet the consequences of non-compliance may depend heavily on national institutional choices. The current framework therefore produces a system in which liability is formally European in origin, but practically national in application. For that reason, a more coherent EU framework requires not only stronger substantive rules, but also clearer standards for supervisory cooperation, penalty assessment, and institutional accountability across Member States.

5.7 Future Challenges and the Impact of AMLA

The creation of the Anti-Money Laundering Authority (AMLA) represents the most significant institutional reform of the EU anti-money laundering framework since the adoption of the earlier AML Directives. The reform reflects the growing recognition that legislative harmonisation alone is insufficient to ensure consistent supervisory outcomes across Member States. As demonstrated throughout this chapter, differences in supervisory practice, enforcement priorities, and institutional capacity have continued to affect the practical implementation of AML and sanctions obligations despite the existence of an increasingly harmonised legal framework. AMLA was therefore created with the objective of strengthening supervisory convergence and improving coordination between national authorities across the Union.[139]

A particularly important aspect of the AMLA Regulation is the introduction of direct supervision for selected high-risk obliged entities operating on a cross-border basis. Prior to the AMLA reform, supervisory responsibility remained almost entirely within the competence of national authorities. This often resulted in situations where risks affecting several Member States were assessed primarily through national supervisory perspectives. The new framework responds to this limitation by enabling AMLA to exercise direct supervisory powers over a limited number of entities considered to present the highest level of risk within the internal market. The objective is not to replace national supervision but to complement it in situations where cross-border risks require a more integrated supervisory response.[140]

The creation of a central authority may also contribute to greater consistency in the interpretation of AML obligations. Financial institutions operating across several jurisdictions

[139] Regulation (EU) 2024/1620 (n 4), recitals 5 and 10; arts 1 and 2.
[140] Regulation (EU) 2024/1620 (n 4), arts 5–12.

have frequently encountered differences in supervisory expectations regarding customer due diligence, beneficial ownership verification, transaction monitoring, and governance requirements. While such differences do not necessarily reflect conflicting legal rules, they may still leave institutions uncertain as to the level of compliance expected by supervisory authorities. Through the development of common methodologies, guidance, and supervisory standards, AMLA may help reduce some of these inconsistencies and facilitate a more uniform application of EU AML legislation.[141]

The potential benefits of AMLA are equally relevant in the sanctions field. The effective implementation of restrictive measures depends on close cooperation between national authorities, financial intelligence units, supervisory bodies, and financial institutions. The rapid expansion of EU sanctions regimes in recent years has exposed practical difficulties associated with information exchange, ownership assessments, and the identification of circumvention schemes operating across several jurisdictions. Despite not being a sanctions authority in the strict sense, AMLA may indirectly strengthen the effectiveness of sanctions compliance throughout the Union through its role in promoting supervisory cooperation and improving access to information.[142]

Nevertheless, the establishment of AMLA should not be regarded as a complete solution to the structural challenges identified in this thesis. Significant elements of supervision and enforcement will remain within the competence of national authorities. Administrative investigations, sanctioning procedures, and many aspects of supervisory decision-making continue to be governed by domestic legal frameworks and institutional traditions. Consequently, divergences in national supervisory and sanctioning practice are unlikely to disappear entirely merely as a result of institutional centralisation. The effectiveness of the new framework will therefore depend not only on the formal powers granted to AMLA but also on the willingness of national authorities to cooperate closely and apply common supervisory standards in practice.[143]

Additional challenges may arise from the need to balance stronger supervisory coordination with respect for legal certainty and proportionality. With a gradual integration of AML supervision at EU level, financial institutions may face more detailed compliance expectations and greater supervisory scrutiny. The benefits of enhanced supervision must be balanced

[141] Regulation (EU) 2024/1620 (n 4), arts 40–43.
[142] Regulation (EU) 2024/1620 (n 4), arts 5–7.
[143] Regulation (EU) 2024/1620 (n 4), recitals 6–7.

against the need for transparent guidance and predictable supervisory practice. Institutions must be able to understand the standards against which their conduct will be assessed and the legal consequences that may follow from compliance failures. Maintaining this balance will remain one of the central challenges of the evolving EU supervisory framework.

Ultimately, AMLA represents an important step in the gradual transformation of EU financial supervision from a predominantly national system towards a more coordinated European model. The extent to which the reform succeeds in reducing fragmentation and strengthening institutional accountability will depend on its practical implementation over the coming years. At present, the creation of AMLA should be understood not as the final stage of regulatory development, but rather as the beginning of a new phase in the evolution of EU supervisory governance in the fields of anti-money laundering and sanctions compliance.

6. Conclusion

The purpose of this thesis was to examine the extent to which the European Union has established an effective framework of supervisory enforcement and institutional liability for credit institutions in the fields of anti-money laundering and sanctions compliance. Particular attention was devoted to the relationship between harmonised regulatory obligations at EU level and their practical implementation by supervisory authorities across the Member States. The analysis was also conducted against the background of recent institutional reforms aimed at strengthening supervisory convergence, most notably the establishment of the Anti-Money Laundering Authority (AMLA).

The analysis undertaken in this thesis shows that the EU has established a comprehensive regulatory framework aimed at preventing money laundering, terrorist financing, and the circumvention of restrictive measures. Over the past two decades, the legislative framework has evolved from a system primarily focused on the formal adoption of minimum standards into a more comprehensive regime characterised by detailed compliance obligations, risk-based supervision, enhanced transparency requirements, and intensified cooperation between competent authorities. Credit institutions are no longer expected merely to react to identified violations. Instead, they are required to establish effective governance arrangements, internal controls, customer due diligence mechanisms, transaction monitoring systems, and risk-management procedures capable of identifying and mitigating risks before unlawful conduct occurs.

At the same time, the findings of this thesis suggest that the effectiveness of the EU framework cannot be assessed solely by reference to the scope of regulatory obligations imposed on financial institutions. Although legislative harmonisation has progressed significantly, practical supervision and enforcement continue to display important differences across Member States. National authorities operate within distinct administrative traditions, institutional structures, enforcement cultures, and procedural frameworks. As a result, similar compliance failures may attract different supervisory responses depending on the jurisdiction involved. The existence of harmonised legal obligations therefore does not necessarily guarantee uniform supervisory outcomes.

An important development identified through the analysis is the transformation of institutional liability within the AML and sanctions framework. Traditionally, regulatory intervention was often associated with identifiable breaches of specific legal obligations. Contemporary supervisory practice reflects a broader understanding of institutional responsibility. Increasing attention is now devoted to the adequacy of compliance systems, governance arrangements, risk-assessment procedures, and internal oversight mechanisms. In this environment, liability extends beyond individual failures to comply with legal requirements and encompasses structural weaknesses that impair an institution's ability to prevent financial crime effectively.

The evolution of institutional liability is closely linked to the preventive orientation of contemporary EU financial regulation. Supervisory authorities are expected to intervene before risks materialise, while institutions are expected to demonstrate that appropriate safeguards are embedded throughout their organisational structures. The cases examined in this thesis illustrate that regulatory authorities place considerable weight on the quality of compliance frameworks and the effectiveness of internal controls when assessing institutional conduct. Accordingly, questions of governance, risk management, and organisational accountability now occupy a central position in the assessment of institutional responsibility.

A further conclusion concerns the relationship between effectiveness and legal certainty. The expansion of preventive supervisory obligations has undoubtedly strengthened the capacity of authorities and financial institutions to address evolving financial crime risks. However, the analysis also reveals the difficulties associated with increasingly complex compliance expectations. Credit institutions frequently operate across multiple jurisdictions and are required to interpret legal obligations in areas where regulatory guidance, supervisory priorities, or enforcement practices may not always be fully aligned. The resulting uncertainty may encourage institutions to adopt highly cautious compliance strategies, including restrictive customer policies and extensive de-risking measures. While such approaches may reduce supervisory exposure, they can also create adverse consequences for legitimate economic activity and financial inclusion.

The discussion of sanctions compliance highlights similar challenges. The evolving EU sanctions regime has required credit institutions to operate within an increasingly complex legal and operational environment. Determining ownership structures, identifying indirect control relationships, assessing beneficial ownership arrangements, and detecting potential circumvention mechanisms often require complex legal and factual assessments. Although the underlying objectives of sanctions policy are clear, the practical application of sanctions obligations may remain difficult in situations involving sophisticated corporate structures or cross-border transactions. The effectiveness of sanctions enforcement therefore depends not only on the existence of legal rules but also on the availability of clear guidance, consistent interpretation, and effective institutional cooperation.

Despite significant progress towards harmonisation, differences in supervisory practice continue to affect the consistency and predictability of regulatory outcomes across the Union. This remains particularly evident in the allocation of enforcement responsibilities among numerous national authorities possessing varying resources, priorities, and approaches. The examples discussed throughout this thesis demonstrate that differences in supervisory practice are not merely theoretical concerns but have practical implications for the consistency and predictability of enforcement outcomes. The persistence of these differences supports the view that legal harmonisation alone cannot fully eliminate institutional fragmentation.

The adoption of the AMLA framework marks an important shift in the development of EU financial supervision towards a more coordinated and integrated model. The creation of a central authority reflects a recognition that legislative convergence requires corresponding supervisory coordination in order to achieve consistent outcomes across the Union. AMLA has the potential to strengthen cooperation between national authorities, facilitate the development of common supervisory methodologies, and contribute to a more coherent interpretation of AML obligations. In addition, its direct supervisory powers in relation to selected high-risk entities introduce an important supranational dimension that was previously absent from the EU AML framework.

Nevertheless, the findings of this thesis suggest that the significance of AMLA should not be overstated. The future effectiveness of the new framework will depend not only on the formal powers entrusted to the Authority but also on the manner in which those powers are exercised in practice. National authorities will continue to play a central role in supervision, enforcement, and sanctions implementation. Much will depend on the quality of cooperation between EU and national institutions, the development of common supervisory standards, and the willingness of competent authorities to pursue consistent regulatory objectives. The findings therefore support the view that the principal challenge facing the EU framework is no longer the absence of legal obligations, but rather the achievement of consistent supervisory and enforcement outcomes across Member States.

In answering the main research question, this thesis concludes that the European Union has established a robust and increasingly integrated framework of supervisory enforcement and institutional liability for credit institutions in the fields of anti-money laundering and sanctions compliance. The framework provides extensive legal obligations, a broad range of supervisory tools, and progressively stronger mechanisms for institutional coordination. However, its practical effectiveness remains influenced by differences in national supervisory practice, the complexity of preventive compliance expectations, and the continuing challenges associated with achieving consistent enforcement across multiple jurisdictions.

Rather than representing a final stage of regulatory development, the EU framework continues to evolve in response to emerging supervisory, compliance, and enforcement challenges. Recent reforms have strengthened the institutional foundations of supervisory cooperation and accountability, but they have not eliminated all sources of fragmentation or legal uncertainty. The long-term success of the framework will depend on ensuring that greater supervisory integration is accompanied by sufficient transparency, predictability, and respect for fundamental principles of legal certainty and proportionality. The legitimacy and effectiveness of the EU framework will depend on its ability to ensure that sophisticated mechanisms of supervision and enforcement remain firmly anchored in the principles of legal certainty, proportionality, and effective judicial protection.

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