PRACTICAL GUIDE TO EU SANCTIONS FOR CIVIL SOCIETY

2023

IPHR International Partnership for Human Rights

State Capture
Research and Action

International Partnership for Human Rights (IPHR) is an independent, non-governmental organisation founded in 2008. Based in Brussels, with a second office in Tbilisi, IPHR works closely with civil society groups from a range of countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities. IPHR acts to empower local civil society groups working to advance the protection of human rights in their respective countries and helps them raise human rights concerns at the international level. In cooperation with partner organisations, IPHR advocates on behalf of individuals and communities who are among those most vulnerable to discrimination, injustice, and human rights violations.

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State Capture: Research and Action is a non-profit foundation registered in the Netherlands (Stichting). Its mission is to investigate and counter state capture and associated activities across the globe. It brings together and supports investigators, civil society, data analysts, policy experts, and legal professionals to conduct research, undertake policy advocacy and initiate legal proceedings to promote a deeper understanding of state capture and its consequences, and use available legal and policy avenues to counter it. It envisions a global society where states exist to serve their people, and where elites are unable to bend domestic laws and institutions to serve their own advantage.

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List of Abbreviations

- **CFSP:** Common Foreign and Security Policy
- **COEST:** Working Party on Eastern Europe and Central Asia
- **COREPER:** Committee of Permanent Representatives
- **DG FISMA:** European Commission's Directorate for Financial Stability, Financial Services, and Capital Markets Union
- **EEAS:** European External Action Service
- **EUGHRSR:** EU Global Human Rights Sanctions Regime
- **HR/VP:** High Representative of the Union for Foreign Affairs and Security Policy
- **NCAs:** National Competent Authorities
- **PSC:** Political and Security Committee
- **RELEX:** Working Party of Foreign Relations Counselors
- **TFEU:** Treaty on the Functioning of the European Union
- **TEU:** Treaty on European Union
- **UNSC:** UN Security Council

I. Introduction to EU Sanctions

Restrictive measures or 'sanctions' are an essential tool of the EU's Common Foreign and Security Policy (CFSP), which aim to promote the objectives of the CFSP, such as democracy, the rule of law, human rights, and the principles of international law.[1] Restrictive measures have become an increasingly central element of the CFSP. As of November 2023, the EU had over 40 sanctions programmes in place, targeting individuals and entities as well as economic sectors in countries around the world, making the EU the second-most active user of restrictive measures after the United States.[2]

The EU considers restrictive measures as part of a wider, comprehensive foreign policy approach. Therefore, the EU tends to use restrictive measures as its last recourse, when all other diplomatic options have failed. As such, EU sanctions are not intended to be punitive, but rather forward-looking, designed to affect behavioural and policy change and to promote the bloc's values.[3]

EU restrictive measures are generally tailored to the particular situation the EU is seeking to tackle. The EU may impose an array of measures, ranging from reducing diplomatic ties to trade embargoes, asset freezes, visa bans and entry restrictions, sectoral sanctions on key economic sectors and industries, investment bans, and prohibitions on supplying certain services.[4] Restrictive measures are designed to target specific undesirable activities, such as terrorism,[5] nuclear proliferation,[6] human rights violations,[7] misappropriation of foreign state funds,[8] interference with sovereignty and territorial integrity,[9] and

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1 Article 21.2, Treaty on European Union.

2 Briefing, 'European Parliament, EU sanctions: a key foreign and security policy instrument', May 2018 (*Briefing*); Overview of sanctions and related resources, available at: *https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/overview-sanctions-and-related-resources_en*.

3 European Council and Council of the European Union, 'Adoption and review procedure for EU sanctions', available at: *https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/*.

4 European Council and Council of the European Union, 'Different types of sanctions', available at: *https://www.consilium.europa.eu/en/policies/sanctions/different-types/*.

5 For example, Hizballah Military Wing is subject to EU restrictive measures directed against certain persons and entities with a view to combating terrorism. See Council Implementing Regulation (EU) 2023/1505 of 20 July 2023 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) 2023/420, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1505*.

6 For example, Regulation sanctions Persons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran. See Council Implementing Regulation (EU) 2023/2196 of 16 October 2023 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302196*.

7 On 22 March 2021, the Council of the EU decided to impose restrictive measures on four Chinese individuals and one entity involved in serious human rights violations including the large-scale arbitrary detentions and degrading treatment of Uyghurs and people from other Muslim ethnic minority. See: *https://www.consilium.europa.eu/en/press/press-releases/2021/03/22/eu-imposes-further-sanctions-over-serious-violations-of-human-rights-around-the-world/*.

8 In March 2014, the Council decided to freeze the assets of individuals responsible for the misappropriation of Ukrainian state funds. These measures were last extended in March 2020 until 6 March 2024. See Council Decision (CFSP) 2023/457 of 2 March 2023 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2023.067.01.0047.01.ENG&toc=OJ%3AL%3A2023%3A067%3ATOC*.

9 The EU can impose restrictive measures, such as travel bans, asset freezes, and trade restrictions, in response to Russia's war of aggression against Ukraine. See Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0269-20230728#M85-1*.

cyber attacks.[10] They may be imposed against: (1) governments of non-EU countries; (2) public or private entities; (3) groups or organisations; and (4) individuals.[11]

This manual provides practical guidance on making recommendations for EU sanctions. It begins by discussing the CFSP and the role of sanctions as an EU foreign policy tool. It sets out the legal framework for EU sanctions and explains the process for the adoption of sanctions at the EU level. It explains the difference between geographic and thematic, as well as between sectoral and targeted, sanctions. Some detail is provided on the scope and powers under the EU Global Human Rights Sanctions Regime. This is followed by a discussion of the standard of proof required for sanctions designations, a brief discussion on derogation and exceptions, and information on how individuals and entities may be removed from sanctions lists through court challenges and delisting. Thereafter, the manual provides practical advice on how to make recommendations and whom to approach.

> *For more detailed guidance and on-the-job mentoring on how to use this mechanism effectively, please get in touch with International Partnership for Human Rights (IPHR) and State Capture: Research and Action.*

II. EU Common Foreign and Security Policy (CFSP)

Sanctions are a foreign policy tool and therefore fall within the EU's Common Foreign and Security Policy. Over the years, the CSFP has become integral to the EU's overall objectives. This policy area has evolved from a purely intergovernmental means of information exchange, coordination, and cooperation under the European Communities to an area in which Member States have ceded some sovereignty in favour of collective decision-making by the bloc.[12] The integration of CFSP policy goals into the EU legal order is clearly visible in Article 3(5) of the Treaty on European Union (TEU), which sets out the EU's values 'in its relations with the wider world', including the core values promoted by the CFSP, namely peace and security. However, this integration is not yet fully complete and the CSFP remains to some extent a work in progress. Although Member States have shown willingness to cooperate within the CFSP, they remain reluctant to cede significant sovereignty over foreign policy to EU institutions.[13] Competences not conferred upon the EU in the Treaties remain with the Member States. The Lisbon Treaty clarifies the division of competences between the EU and Member States. These competences are divided into three main categories: exclusive competences, shared competences, and supporting competences.[14]

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10 For example, on 22 October 2020, the EU sanctioned the 85th Main Centre for Special Services of the Main Directorate of the General Staff of the Armed Forces of the Russian Federation for being responsible for cyberattacks with a significant effect constituting an external threat to the Union or its Member States, in particular the cyberattack against the German Federal Parliament in April and May 2015 and the attempted cyberattack aimed at hacking into the Wi-Fi network of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the Netherlands in April 2018. See Council Decision (CFSP) 2019/797 of 17 May 2019 concerning restrictive measures against cyber-attacks threatening the Union or its Member States, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02019D0797-20201124&qid=1620137455138*.

11 European Council and Council of the European Union, 'Adoption and review procedure for EU sanctions', available at: *https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/*.

12 Direct quote from *EU External Relations Law, text, cases and materials*, Cambridge Edition, B.V.Vooren; R.A. Wessel, p. 346.

13 Direct quote from *EU external Relations Law, text, cases and materials*, Cambridge Edition, B.V.Vooren; R.A. Wessel, p. 347.

14 Articles 2, 3, 4, and 5 TFEU.

However, the decision-making process for restrictive measures comes under none of these categories, as it is a special competence given to the EU.

EU foreign policy is defined and implemented by the Council. The Political and Security Committee, comprising ambassadors from the 27 EU Member States, acting under the responsibility of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) monitors the situation in the areas covered by the CFSP and plays a key role in defining and following up on the EU's response to any crisis, most notably in proposing sanctions to the Council.

III. Legal Basis for EU Sanctions

EU restrictive measures arise from binding resolutions of the UN Security Council (UNSC) or as a result of a unanimous decision by the bloc's 27 Member States.

The EU is obliged to implement sanctions imposed by the UNSC in line with its obligations under the UN Charter.[15] As all other UN member states, EU Member States may go beyond the measures imposed by the UNSC and apply further and more restrictive measures.[16]

The EU may also impose autonomous sanctions under its own legislation.[17] Sanctions issued by the bloc are binding on all Member States.[18] In recent years, the EU has increasingly relied on its own independent sanctioning powers due to polarisation within and inaction by the UNSC.[19]

According to Article 29 TEU, 'the Council [of the EU] adopts decisions which define the approach of the Union to a particular matter of geographical or thematic natures, and the Member States ensure that their national policies conform to the Union position'. Article 215 of the Treaty on the Functioning of the European Union (TFEU) empowers the Council to adopt the necessary measures to implement decisions adopted under Article 29 TEU to ensure their uniform application in all Member States. [20] Other key provisions of the TEU regulating the sanction-making process are Articles 21(2), 22, 24, 29, and 36.[21] Additionally, Article 75 TFEU empowers the European Parliament and the Council to impose sanctions aimed at preventing and combatting terrorism within the EU.

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15 Article 103 of the UN Charter Treaty: 'in the event of a conflict between the obligations of the Member of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail'.

16 *E.g.:* EU sanctions against the Democratic People's Republic of Korea (North Korea). See: *https://www.sanctionsmap.eu/#/main/details/20/?search=%7B%22value%22:%22%22,%22searchType%22:%7B%7D%7D*.

17 Articles 29 and 215 TFEU.

18 European Council and Council of the European Union, 'Different types of sanctions', available at: *https://www.consilium.europa.eu/en/policies/sanctions/different-types/*.

19 For example, on 17 February 2017, Russia and China vetoed draft proposed sanctions on designated individuals linked to the production of chemical weapons in Syria, as well as an embargo on any materials that could be used to produce chemical weapons (see Amnesty International: *https://www.amnesty.org/en/latest/news/2017/02/un-russia-and-chinas-abusive-use-of-veto-shameful/*). On 30 August 2023, Russia's veto resulted in the UNSC's failure to renew a travel ban asset freeze against those obstructing the Mali peace agreement (see Radio Free Europe / Radio Liberty: *https://press.un.org/en/2023/sc15399.doc.htm*).

20 Article 215(1) TFEU concerns the adoption of restrictive measures against third countries. Article 215(2) TFEU deals more precisely with the adoption of sanctions against individuals, or non-state entities.

21 General Framework for EU Sanctions, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum:25_1*.

As a matter of principle, restrictive measures must always be framed with consideration given to the general obligation under Article 6(3) TEU to respect fundamental rights, as guaranteed by the European Convention on Human Rights (ECHR), and as general EU law principle common to all Member States.

Article 275 TFEU grants the Court of Justice of the European Union (CJEU) jurisdiction to judicially review the legality of EU sanctions against natural or legal persons.

EU sanctions do not have an extraterritorial effect. Therefore, despite the targets being a foreign country or foreign individuals or entities, enforcement of EU restrictive measures is limited by the EU's jurisdiction – i.e. (1) conduct which takes place on EU territory, including in its airspace; (2) EU nationals, whether or not they are in the EU; (3) companies and organisations incorporated under the law of a Member State, whether or not they are in the EU; (4) any business done in whole or in part within the EU; and (5) on board aircrafts or vessels under the jurisdiction of a Member State.[22] In practice, this means that while the EU can impose sanctions on anyone anywhere in the world, those sanctions can only be enforced against persons or property with ties to the EU's jurisdiction (e.g.: targeted person's funds are located within the EU, or the target entity needs access to EU markets). Likewise, only persons and entities who are nationals of or resident, located, incorporated, or operating within the EU may be accused of violating EU sanctions (e.g., EU-based banks providing financial services to sanctioned individuals).

IV. Adoption and Implementation of EU Sanctions

Chapter 2 Title V TEU sets out the procedural requirements for the adoption of restrictive measures. According to Article 31 TEU, EU sanctions are adopted by unanimous decision of the Council.

Proposals for sanctions are presented to the Council by the HR/VP and/or Member States. The Council then debates and votes on the package of sanctions. This typically involves political bargaining between the 27 Member States and can take some time.

Once unanimity is achieved, further legislation (either by the Council and/or Member States) is required to give sanctions their full effect. Certain restrictive measures, such as arms embargoes and travel bans, are implemented by Member States through national legislation. Conversely, asset freezes and other types of economic and financial sanctions are implemented by Council Regulation. Proposals for implementing EU Regulations are drafted by the Commission and the High Representative. Such proposals are then examined by committees (RELEX and COREPER) and sent back to the Council for adoption. The Council then informs the European Parliament of the adoption of the Council Regulation.[23]

EU Regulations do not need to be transposed into national law as they become immediately binding on companies and individuals within the EU.[24] Regulations contain details on the precise scope of the

22 General Secretariat of the Council and Permanent Representative Committee, Sanctions Guidelines, 4 May 2018, p.42, available at: *Guidelines*.

23 Council of the European Union, 'Adoption and review procedure for EU sanctions', available at: *https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/*.

24 Council of the European Union, 'Adoption and review procedure for EU sanctions', available at: *https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/*.

measures and their implementation. The regulation usually enters into force on the day following its publication in the EU official journal. In practice, the adoption of the Council Decision and implementing Regulation takes place simultaneously.[25]

Implementation and enforcement of EU sanctions is primarily the responsibility of the Member States. The enforcement of EU Regulations is delegated to the relevant authorities in each Member State (i.e., any violations of EU sanctions are enforced by the Member States where the violation occurred or whose national/incorporated entity is responsible for the violation). Member States should ensure efficient national co-ordination and communication mechanisms between all relevant government agencies, bodies, and services with competence in the field of restrictive measures, such as ministries, financial intelligence units, financial supervisors, intelligence and security services, judicial authorities, the office of the public prosecutor, and other law enforcement bodies, as appropriate.[26] Member States have a duty to ensure good practical implementation of EU sanctions by cooperating with all the necessary agencies and, where necessary, engaging in constructive dialogue and co-operation with the relevant private organisations within their jurisdiction, such as credit and financial institutions.

In the case of financial sanctions, Member States must exchange information with other agencies, such as Europol or the Sanctions Committees established by the UNSC. They shall ensure that financial transactions linked to the accounts of designated persons or entities are analysed by the appropriate agencies or services. Therefore, Member States must have the necessary legislative framework in place and procedures to allow an effective freezing of funds. Some regulations explicitly provide for analysis of suspicious transactions by the competent authorities after notification by financial institutions.[27]

Member States have a duty to impose penalties in case of breach of EU restrictive measures. The penalties differ from one Member State to another.[28]

V. Geographic vs Thematic Sanctions

Most EU sanctions are imposed in response to a situation in a specific country or region (i.e., geographic or country-specific sanctions). These measures – either transposed from the UNSC or agreed by the 27 Member States – are designed to exert pressure and influence over key actors in a specific situation (e.g., conflict in the Democratic Republic of Congo[29]), or members of a government (e.g., the Lukashenka regime in Belarus[30]). There are currently over 30 geographic sanctions regimes implemented by the EU. These sanctions tend to represent the bloc's common foreign policy position towards a specific

25 Council of the European Union, 'Factsheet: EU restrictive measures', 29 April 2014, available at: *https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/135804.pdf*.

26 Foreign Relations Counsellors Working Party, 'Restrictive measures – Update of the EU Best Practices for the effective implementation of restrictive measures', 4 May 2018, p. 31, available at: *Best practices*.

27 Article 30(6)(d) of Council Regulation (EU) No 267/2017 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) 96/2010 as cited in the Guidelines, p. 32, available at: *Guidelines*.

28 Foreign Relations Counsellors Working Party, 'Restrictive measures – Update of the EU Best Practices for the effective implementation of restrictive measures', 4 May 2018, p. 32.

29 Council Regulation (EC) No 1183/2005 of 18 July 2005 concerning restrictive measures in view of the situation in the Democratic Republic of the Congo, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02005R1183-20230728*.

30 Council Regulation (EC) 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R0765-20230805*.

government, region, or situation and deploy a combination of restrictive measures, including diplomatic, sectoral, and targeted measures.

In addition, the EU has adopted several thematic (or horizontal) sanctions regimes – targeting unlawful and/or deplorable conduct wherever it takes place in the world, namely: terrorism,[31] cyber-attacks,[32] proliferation and use of chemical weapons,[33] and human rights abuses.[34] These regimes encapsulate the bloc's policy to oppose and suppress this type of conduct across the globe and to deny entry into the bloc and its financial systems to those involved in such activities. Restrictive measures include immigration/visa bans, asset freezes, and restrictions on access to EU markets.

VI. Targeted vs Sectoral Sanctions

Sectoral sanctions focus on specific sectors of the economy (e.g., oil production or weapons manufacturing/export). The aim of sectoral sanctions is to prevent European businesses and citizens from trading or engaging with problematic or lucrative sectors of an economy targeted as part of the bloc's geographic sanctions regimes. Restrictions can be placed on the export and import of certain goods, services (legal, financial, banking, accounting, insurance, etc.), and technical assistance (e.g., to a targeted aviation sector). The most extensive sectoral sanctions imposed by the EU to date are the bloc's sectoral sanctions against Russia in response to its full-scale invasion and attempted annexation of parts of Ukraine.[35]

Targeted sanctions are restrictive measures imposed on specific individuals, legal entities, or organisations. Targeted sanctions shift the focus of restrictive measures away from the conduct of entire nations or governments to the conduct or role of specific (often powerful) individuals and entities. The overarching purpose of targeted sanctions is to encourage a change in the behaviour of the targeted person(s). Targeted sanctions allow governments to sanction individuals and entities while maintaining diplomatic and economic relations with the states where the targets operate. Targeted sanctions may also have far-reaching implications for international businesses because they create the need for banks and companies to conduct proactive corporate risk and due diligence assessments to screen for sanctioned individuals and their associates among their partners, clients, and supply chains.

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31 Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02001R2580-20220413*.

32 Council Regulation (EU) 2019/796 of 17 May 2019 concerning restrictive measures against cyber-attacks threatening the Union or its Member States, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02019R0796-20220413*.

33 Council Regulation (EU) 2018/1542 of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02018R1542-20221114*.

34 Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02020R1998-20230720*.

35 REF (833/2014).

The key aims of targeted sanctions can be summarised as follows:

- Changing a perpetrator's behaviour by creating a powerful deterrent;
- Reducing access to capital and financial markets to reduce the repressive capacity and/or long-term sustainability of regimes and criminal syndicates;
- Instigating the defection of elites to create space for in-country opposition;
- Signalling international expectations of changes on the ground; and
- Naming and shaming perpetrators.

VII. EU Global Human Rights Sanctions Regime

The EU Global Human Rights Sanctions Regime, adopted on 7 December 2020 (EUGHRSR),[36] allows the EU to target individuals, entities, and bodies – including state and non-state actors – responsible for, involved in, or associated with serious human rights violations and abuses worldwide, no matter where they occur. The EUGHRSR reflects that the promotion and protection of human rights remain a cornerstone of and priority for EU external action, as well as the EU's determination to address serious human rights violations and abuses.

Sanctionable conduct under the EUGHRSR is set out in Article 2 of the Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses. These acts are:

(a) Genocide;

(b) Crimes against humanity;

(c) Serious human rights violations or abuses, including (i) torture and other cruel, inhuman, or degrading treatment or punishment, (ii) slavery, (iii) extrajudicial, summary, or arbitrary executions and killings, (iv) enforced disappearance of persons, and (v) arbitrary arrests or detentions; and

(d) Other human rights violations or abuses, including but not limited to the following, in so far as those violations or abuses are widespread, systematic, or are otherwise of serious concern as regards the objectives of the CFSP as set out in Article 21 TEU: (i) trafficking in human beings, as well as abuses of human rights by people smugglers as referred to in Article 2, (ii) sexual and gender-based violence, (iii) violations or abuses of freedom of peaceful assembly and of association, (iv) violations or abuses of freedom of opinion and expression, and (v) violations or abuses of freedom of religion or belief.

36 Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (as amended), OJ L 410I, 7.12.2020, p. 1, consolidated version available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02020R1998-20230720*; and Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (as amended), OJ L 410I, 7.12.2020, p. 13, consolidated version available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02020D1999-20230720*.

NB: For all other human rights violations and abuses covered in section (d), the widespread, systematic nature or serious concern as regards to the objectives of the CFSP must be demonstrated.

The EUGHRSR provides for sanctions targeting legal and natural persons who (a) are responsible for human rights abuses; (b) provide financial, technical, or material support for or are otherwise involved in human rights abuses; or (c) are associated with persons covered by (a) and (b).

The EU human rights sanctions regime allows the EU to:

(i) Ban targeted persons and entities from entering the EU;

(ii) Freeze all funds and economic resources belonging to, owned, held, or controlled by the targeted person or entity; and

(iii) Order that no funds or economic resources be made available – directly or indirectly – to or for the benefit of the targeted person or entity.

As of November 2023, 62 individuals and 20 legal entities have been sanctioned under the EUGHRSR.[37] The first restrictive measures were imposed on 3 March 2021, targeting four Russian nationals for their involvement in the detention of the Russian opposition politician Alexei Navalny.[38]

On 22 March 2021, the Council decided to impose restrictive measures on 11 individuals and four entities responsible for serious human rights violations and abuses in various countries around the world.[39] This included the large-scale arbitrary detentions of Uyghurs in China's Xinjiang region, repression in North Korea, extrajudicial killings and enforced disappearances in Libya, torture and repression against LGBTIQ persons and political opponents in Chechnya, Russia, and both torture and extrajudicial, summary, or arbitrary executions and killings in South Sudan and Eritrea.[40]

All of the above designations concern the heads of institutions that had authority and control over the direct perpetrators of the abuses.

37 Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02020R1998-20230720#M2-2*.

38 Council Decision (CFSP) 2021/372 of 2 March 2021 amending Decision (CFSP) 2020/1999 concerning restrictive measures against serious human rights violations and abuses OJ LI 71, 2.3.2021, p.6; and Council Implementing Regulation (EU) 2021/371 of 2 March 2021 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses, OJ LI 71, 2.3.2021, p.1.

39 Council Implementing Regulation (EU) 2021/478 of 22 March 2021 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses, OJ L 99I/1, 22.03.2021, pp. 1-13, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0478*.

40 Council Implementing Regulation (EU) 2021/478 of 22 March 2021 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses, OJ L 99I/1, 22.03.2021, available at: *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0478*.

VIII. Standard of Proof for Sanctions

Although not expressly defined in EU legal documents, it is understood that designations will be made on the basis of a sufficiently concrete factual basis[41] – i.e., credible and reliable evidence that meets the standard of 'reasonable grounds to believe'.[42] In order to assess the probative value of a piece of evidence, regard should be given to the credibility of the account it contains and, in particular, to the person from whom the evidence originates, the circumstances in which it came into being, the person to whom it was addressed, and whether, on its face, the evidence appears to be sound and reliable.[43]

To this end, the Council requires each designation to be supported by an evidential package that demonstrates: (1) the existence of sanctionable conduct falling within the scope of the relevant sanctions regime (e.g., serious human rights violations listed under the EUGHRSR); and (2) the designated person's responsibility for or involvement in the conduct or association with the main perpetrator. In addition, it must be demonstrated that the requested sanctions are proportionate to the violations being raised. For a listing to be upheld by the CJEU, it is sufficient that one of several reasons put forward by the Council can be substantiated.[44]

> *NB: According to information provided by the European External Action Service (EEAS), the evidential package should be made up of open-source materials – including reports by international and regional organisations, independent investigations by non-governmental organisations, and media reports. The EEAS advises that it will not be able to protect witness anonymity in the event that a designation is challenged before the CJEU and hence cautions against reliance on witness testimony where the witness may become a target for reprisals in the event of the disclosure of their identity. There is a classified materials procedure available before the CJEU, however it is complex and almost never used.*

IX. Derogations and Exceptions

All EU sanctions are designed to minimise the risk of unintended consequences for the civilian population. As such, EU sanctions regulations provide for exceptions and allow Member States to issue derogations. Exceptions and derogations can be applied for humanitarian reasons (e.g., to allow for the export of medical equipment) as well as to meet the basic needs of designated persons and their dependents (such as food or medicines).

Derogations mean that a restricted or otherwise prohibited action can be carried out only after a Member State's competent authority has granted an authorisation. Not all Member States make this information public, although it may be possible to access through freedom of information requests. Exceptions are written directly into sanctions regulations and mean that a restriction does not apply when the purpose

41 Joined Cases C 72/19 P and C 145/19 P *Saleh Thabet and Others v Council* [2020] ecli:eu:c:2020:992, para. 39.

42 The CJEU's landmark decision in the case of *Kadi II* in 2013 (Judgment of 18 July 2013 in *Commission and others v Kadi*, Joined Cases C-584/10 P, C-593/10 P and C-595/10, ECLI:EU:C:2013:518) set out the broad test for the standard of proof for sanctions listings: 'There has to be a sufficiently solid factual basis to substantiate the reasons for listing.' There is no agreed, publicly stated formula, however, as to what a 'sufficiently solid factual basis' means. Each Member State applies its own standard in the vote in the Council on adopting a listing. The consequence is that there is no assurance that a similar standard of proof is applied across all EU sanctions regimes.

43 Judgment of the General Court of 1 June 2022, *Prigozhin v Council*, Case T-723/20, ECLI:EU:T:2022:317, paras. 59-60.

44 Judgment of 21 April 2015 in *Issam Anbouba v Council of the European Union*, Case C-630/13 P, EU:C:2015:247, para 46.

of the intended action coincides with the scope of the exemption, which can be carried out without any delay. Always check for applicable exceptions in the wording of the applicable regulation to ensure that you are not requesting action that falls within an exception or known derogation.

X. Court Challenges and Delisting

A successful designation hinges on whether the requested listing is based on lawful and applicable grounds, whether there is a sufficiently concrete factual basis that the person/entity meets those grounds, and whether there is sufficient evidence to support the facts. In addition, the EU must comply with due process and respect the fundamental rights of designated persons, as well as conform to the overarching principle of proportionality. If these criteria are not met, the designated person or entity is delisted.

The Council notifies individuals and companies listed under an EU sanction of the measures taken against them once they have been taken.[45] This communication takes place after the sanction is put in place. In this communication, the Council must include the reasons for the listing – either directly, or via the publication of a notice – and provide the natural or legal person, entity, or body 'with an opportunity to present observations'.[46] If substantial new evidence is presented, the Council is to review it and inform the targeted person/entity accordingly.

At the same time, the Council must bring the available legal remedies to their attention: they can ask the Council to reconsider its decision by providing observations on the listing; or they can challenge the measures before the General Court of the EU (hereafter, the General Court) within two months and 10 days of being notified. If the General Court 'annuls' (strikes down) the sanction, the judgment only comes into effect two months and 10 days after the date of delivery. Within this time, the Council can – and often does – relist the same individual or company, but with amended statements of reasons.

Grounds for challenging a sanctions designation can be summarised as:

- Lack of evidence to justify sanctions;
- Failure to follow due process in listing procedure;
- Vague reasons for designation;[47]
- Errors in factual assessment of the reasons for sanctions;
- Violations of the right to defence;[48]

45 Article 14(2) of Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (as amended); OJ L 410 I, 7.12.2020, p.1.

46 *Ibid.*

47 The statement of reasons makes it possible to identify the actual and specific reasons why the Council considers that the applicant must be subject to the restrictive measures at issue. It does not constitute a general formulation, but rather specifies the matters taken into account, with the result that it must be regarded as sufficient to enable the applicant to ascertain whether the contested acts are well founded and to defend himself before the Court and to enable the Court to exercise its power of review; Judgment of the General Court of 1 June 2022, *Prigozhin v Council*, Case T-723/20, ECLI:EU:T:2022:317, paras. 33-34.

48 The principle of observance of the rights of the defence requires, *inter alia*, that the evidence adduced against the entity concerned to justify the measure adversely affecting it must be communicated to it, in so far as possible, either concomitantly with or as soon as possible after the adoption of an initial decision to freeze its funds. In the context of the adoption of a decision to maintain the name of a person or an entity in a list of

- Disproportionate infringement of fundamental rights;[49] and
- Abuse of power.

In Case C-72/19 P, the CJEU held that the Council had to be cautious when imposing restrictive measures and that 'there must be a sufficiently solid factual basis' on which the concerned persons or entities are listed.[50] The Court continued that the Council must itself verify that the rights of the defence and the right to effective judicial protection were respected when the decision on restrictive measures was adopted and that the grounds must be 'sufficiently detailed and specific, that it is substantiated and that it constitutes in itself a sufficient basis to support that decision'.[51] Additionally, the Court reiterated that 'it is the task of the competent EU authority to establish, in the event of the challenge, that the reasons relied on against the person concerned are well founded, and not the task of the person to adduce evidence of the negative, that those reasons are not well founded.'[52]

Furthermore, all restrictive measures must be proportionate, necessary, and genuinely meet the objectives of the bloc's foreign policy.[53] As the General Court explained, 'in order to comply with EU law, a limitation on the exercise of [fundamental rights recognised by the Charter of Fundamental Rights] must satisfy three conditions':

- *First*, the limitation must be provided for by law, (i.e., the measure in question must have a legal basis);
- *Second*, the limitation must refer to an objective of general interest, recognised as such by the European Union; and
- *Third*, the limitation may not be excessive. It must be necessary and proportionate to the aim sought and must not impair the substance of the right or freedom at issue.[54]

The Court's case law makes clear that judicial review of compliance with the principle of proportionality is limited by the Council's broad discretion 'in areas which involve the making by that institution of

persons or entities subject to restrictive measures, the Council must respect the right of that person or entity to be heard beforehand where that institution is including in that decision new evidence against that person or entity, namely evidence which was not included in the initial listing decision; Judgment of the General Court of 1 June 2022, *Prigozhin v Council*, Case T-723/20, ECLI:EU:T:2022:317, paras. 120-122.

49 While respect for fundamental rights (namely, the *right to property*, enshrined in Article 17 of the Charter of Fundamental Rights, and the *right to pursue an economic activity*, enshrined in Articles 15 and 16 thereof) is a condition for the legality of EU acts. Those fundamental rights do not enjoy absolute protection under EU law, but must be viewed in relation to their function in society. Consequently, the exercise of those rights may be restricted, provided that those restrictions in fact correspond to objectives of *public interest* pursued by the European Union and do not constitute, in relation to the aim pursued, a disproportionate and intolerable interference, impairing the very substance of the rights thus so guaranteed; Judgment of the General Court of 1 June 2022, *Prigozhin v Council*, Case T-723/20, ECLI:EU:T:2022:317, paras. 130-132.

50 Joined Cases C 72/19 P and C 145/19 P *Saleh Thabet and Others v Council* [2020] ecli:eu:c:2020:992, para. 39.

51 *Ibid*, para. 41.

52 *Ibid*, para 45.

53 Article 52(1) CFR: 'Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the [European] Union or the need to protect the rights and freedoms of others.'

54 Judgment of 30 November 2016, *Rotenberg v Council*, T-720/14, EU:T:2016:689, paras. 170173. See also Judgment of 28 November 2013, *Council v Manufacturing Support & Procurement Kala Naft*, C348/12 P, EU:C:2013:776, para. 122.

political, economic and social choices, and in which it is called upon to undertake complex assessments'. Therefore, 'the legality of a measure adopted in those fields can be affected only if the measure is manifestly inappropriate having regard to the objective which the [Council] is seeking to pursue'.[55] The CJEU has previously held that, in light of the importance of the objectives pursued by restrictive measures, the adverse consequences of their application to the listed person are not manifestly disproportionate.[56]

In the event that sanctions are declared unlawful, the designated person may apply for damages. In accordance with settled case law, three cumulative conditions need to be satisfied:

- The institution's conduct must be unlawful and the breach must be sufficiently serious;
- Actual damage must have been suffered; and
- There must be a causal link between the conduct complained of and the damage suffered.

In the context of sanctions cases, the CJEU has approached damages claims restrictively and has generally been reluctant to award damages even where sanctions have been found to be unlawful. Finding that the restrictive measures were unlawful is in any event capable of constituting a form of reparation for non-material harm.[57]

Delisting can also take place at the Council level. The Annex which lists the names of targeted individuals as well as the reasons for their listing under each sanctions regime must be reviewed every 12 months and can be amended on the basis of information that Member States provide.[58] The Council may choose not to renew sanctions against any individual or entity listed in the annex. This may be based on the death of the designated person or a significant change in the circumstances that led to the designation. However, this can also be the result of political bargaining between Member States.

XI. Recommending Sanctions

In recent years, the EU has become more receptive to recommendations on sanctions policy and sanctions targets from civil society. Civil society organisations can recommend sectoral and targeted sanctions and advocate for new geographic and thematic sanctions regimes. All recommendations should demonstrate knowledge and understanding of the situation and geographic area in question, support all allegations with credible and reliable evidence, provide legal analysis to demonstrate how the alleged facts meet the applicable legal framework, and show that the recommended action is proportionate and meets the interests and policy objectives of the EU. Recommendations can be made directly to the EEAS and HR/VP and/or to individual Member States. Only the HR/VP and the Member States can propose specific targets for inclusion on sanctions lists. As such, the first hurdle is to convince one of these actors to champion a recommendation.

See Section D below for information on entry point contacts.

55 Judgment of 30 November 2016, *Rotenberg v Council*, T-720/14, EU:T:2016:689, para. 179, referring to Judgment of 28 November 2013, *Council v Manufacturing Support & Procurement Kala Naft*, C348/12 P, EU:C:2013:776, para. 120 (cited by the Council in Defence, para. 58). See also Judgments of 9 July 2020, *Haswani v Council*, C241/19 P, EU:C:2020:545, para. 100; and of 28 March 2017, Rosneft, C72/15, EU:C:2017:236, para. 146.

56 Judgment of 30 November 2016, *Rotenberg v Council*, T-720/14, EU:T:2016:689, para. 180.

57 Judgment of 18 February 2016, *Jannatian v Council*, T-328/14, EU:T:2016:86.

58 Article 14(3) of the Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses (as amended); OJ L 410 I, 7.12.2020, p.1.

All recommendations should consist of five basic elements:

(i) The biographical information / registration data of the targets (targeted sanctions);

(ii) Background information that contextualises the recommendations;

(iii) Facts – supported by credible evidence – demonstrating sanctionable conduct and the link between the individual, entity, or sector and that conduct;

(iv) Analysis showing how the facts establish grounds under which sanctions may be imposed; and

(v) A statement on the proportionality of recommended sanctions and their alignment with EU policy interests.

Recommendations for sectoral sanctions need to demonstrate – with evidence – how the targeted sector, product, or service contributes to the sanctionable conduct and how EU restrictions on that sector would affect the desired change.

A. Feasibility

The first step is to assess whether EU sanctions would be applicable and/or desirable in the given situation.

Applicability requires one to assess the following factors:

(1) Is the country/region or situation covered by one of the EU's geographic sanctions regimes?

> *(NB: An EU sanctions map is available online here: https://sanctionsmap.eu)*

(2) Does the conduct fall into one of the EU's horizontal or thematic sanctions regimes (i.e., human rights abuses, cybercrime, terrorism, or weapons of mass destruction)?

(3) Can you identify individuals or companies involved in (or linked to) the conduct

> *(NB: qualifying involvement is not clearly defined in EU law and will depend on the wording of the specific sanctions regulation and be assessed on a case-by-case basis;[59] in some regimes, involvement can be defined very broadly)?[60]*

(4) Would the envisaged sanctions align with EU policy?

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59 Judgment of 2 June 2016 in General Court 2016 in *Bank Mellat v Council of the European Union*, Case T-160/13, EU:T:2016:331, para. 100.

60 *E.g.*: Article 3(f) of Regulation 269/2014: 'natural or legal persons, entities or bodies supporting, materially or financially, or benefitting from the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine'; The CJEU has confirmed that 'those who hold senior posts, such as the individuals involved in military, police or security operations, must be regarded as being fully associated with the [sanctioned political regime], unless they have taken specific action demonstrating their rejection of the government's practices. In those circumstances, referring to the capacity of those individuals or to the posts they occupy is sufficient, as the contested measures themselves expressly provide'; Judgment of 28 July 2016 in *Johannes Tomana and Others v Council of the European Union and European Commission*, Case C-330/15 P, EU:C:2016:601, para. 84.

(NB: refer to EU policy statements, papers, and speeches on the issues and/or countries in question to determine what the relevant EU common policy might be; there may not be a common EU policy on this issue, in which case one would need to argue that it aligns with EU policy in relation to other similar or comparable issues)?

B. Investigations

Once one has decided that a situation lends itself to a recommendation for sanctions, it will be necessary to conduct an investigation to gather evidence. Credible evidence is required to substantiate the following facts:

(1) The identity of your targets (e.g., full name, dates of birth, nationality, and – in the case of companies – company registration address and number);

(2) The sanctionable conduct (i.e., the fact that a human rights violation or some other sanctionable conduct took place);

(3) Linkage between the target and the sanctionable conduct (i.e., evidence of their involvement); and

(4) Assets and/or corporate interests belonging to the target and the main target's close family members and associates (the EU may sanction family members if they are being used to conceal the main target's ownership of assets in the EU).

Investigations should be conducted using a consistent methodology based on information-gathering from a broad range of sources. While the European authorities do not possess investigative powers, they can rely on reports which are made available following thorough investigations by independent agencies and NGOs. Sources of information may include:

- Field investigations;
- Open-source intelligence;
- Documentary review;
- Financial investigations;
- Interviewing of victims and witnesses

(NB: the EU is unable to protect the identity of your witnesses if the designation is challenged and the witness statement must be disclosed to the targeted person);

- Information from civil society activists, lawyers, journalists, doctors, and student groups;
- Information from state and government officials or diplomats;
- Media articles and press releases; and
- Academic research.

Press articles may be used to corroborate the existence of certain facts if they are sufficiently specific, precise, and consistent as regards the facts they describe.[61] To assess the probative value of a document,

61 See Judgment of 1 June 2022, *Prigozhin v Council*, T-723/20, ECLI:EU:T:2022:317, para. 59; Judgment of 25 January 2017, *Almaz-Antey Air and Space Defence v Council*, T255/15, EU:T:2017:25, para. 147 and the case law cited, and of

regard should be given to the credibility of the account it contains and, in particular, to the person from whom the document originates, the circumstances in which it came into being, the person to whom it was addressed, and whether, on its face, the document appears to be sound and reliable.[62]

C. Drafting a Recommendation

There is no template or set structure for a recommendation for sanctions. However, any recommendation should contain all the information necessary to assess its merits. The following structure may be adopted.

- Introduction: Identify the author, the request, and the targeted persons and provide an executive summary of the request.
- Factual context: A detailed description of the factual situation, political, social, and cultural context leading to the alleged human rights violation.
- Evidence of sanctionable conduct: A detailed description of the events or conduct in question with all supporting evidence referenced and attached in an annex.
- Legal framework: A detailed description of the legal basis for the recommended designation, nature of alleged human rights violations, and its legal basis.
- Analysis: A detailed description of the arguments supported by the evidence that the legal and natural persons are responsible for sanctionable conduct.
- Proportionality and EU policy interests: Demonstrate that the recommended sanctions are proportional and in line with EU policy.
- Conclusion: Specify the recommended type of sanctions.

A suggested template can be found in Annex 1.

D. Advocacy

THE POLICY PROCESS:

Only the HR/VP (at time of writing, Josep Borrell Fontelles) and the EU Member States can put forward proposals for sanctions.

All decisions to adopt, amend, lift, or renew sanctions are taken by the Council following examination in the relevant Council working groups (also called 'preparatory bodies'). The latter may include the Council working party responsible for the geographical region to which the targeted country belongs (for example, the Working Party on Eastern Europe and Central Asia or 'COEST'), the Working Party of Foreign Relations Counselors (RELEX), the Political and Security Committee (PSC), and the Committee of Permanent Representatives (COREPER II). Unanimity (consensus) in the Council is required to adopt restrictive measures.[63]

14 March 2018, *Kim and Others v Council and Commission*, T533/15 and T264/16, EU:T:2018:138, para. 108 and the case law cited.

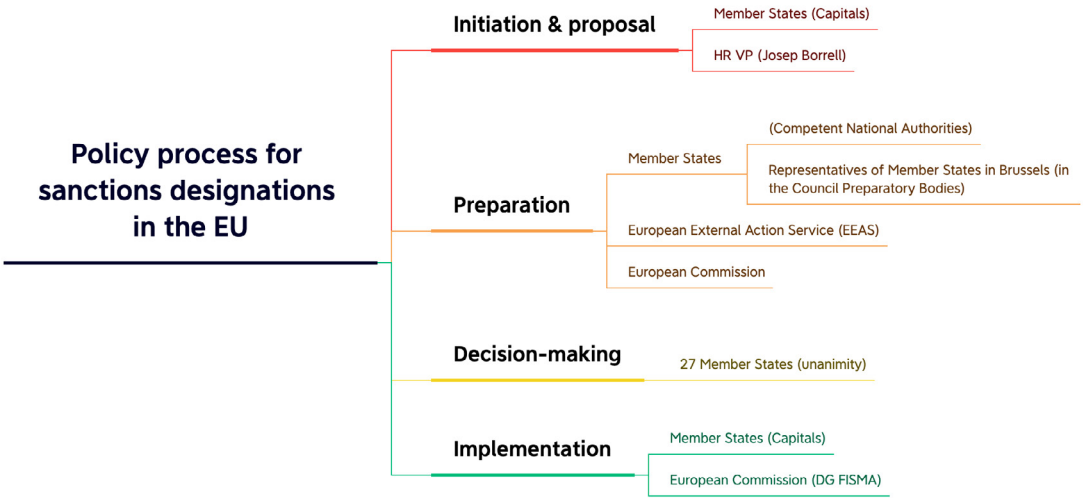
62 See Judgment of 1 June 2022, *Prigozhin v Council*, T-723/20, ECLI:EU:T:2022:317, para. 60; Judgements of 31 May 2018, *Kaddour v Council*, T-461/16, EU:T:2018:316, para. 107 and the case law cited, and of 12 February 2020, *Amisi Kumba v Council*, T-163/18, EU:T:2020:57, para. 95 and the case law cited.

63 Council of the European Union. Adoption and review procedure for EU sanctions, available at: *https://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/*

The operational side of the designations (preparation, maintenance, and review) is mainly done at the level of Member States by the competent authorities in the respective capitals. In Brussels, the EEAS sanctions unit is also involved.

The enforcement of sanctions is also a responsibility of the Member States. However, oversight coordination of enforcement and implementation at the EU level is under the responsibility of the European Commission's Directorate for Financial Stability, Financial Services, and Capital Markets Union (DG FISMA). This includes regular exchanges with the national competent authorities (NCAs) concerning different aspects of sanctions implementation, including the amounts of assets frozen and derogations granted. DG FISMA prepares proposals for Regulations on sanctions for adoption by the Council of the EU, and represents the European Commission in sanctions-related discussions with Member States in RELEX. [64]

Finally, to promote sanctions enforcement among third countries by means of diplomacy, the EU appointed *David O'Sullivan* as International Special Envoy for the Implementation of EU Sanctions.



THE ADVOCACY PROCESS:

The main contact points for sanctions designation/advocacy would be:

- Member States (either through the national authorities responsible for sanctions or their colleagues in their Permanent Representations to the European Union responsible for human rights and/or the region/country in question).
- The Office of the HR/VP (the Deputy Head of Cabinet and/or the member of Cabinet responsible for human rights and/or the country in question).
- COEST and RELEX delegates in Member State Permanent Representations to the EU — a focal point for communicating sanctions proposals in Brussels and addressing implementation loopholes at the level of individual Member States.
- DG FISMA's enforcement team — the focal point for addressing the gaps in enforcement and implementation at the EU level.

64 European Commission. Overview of sanctions and related resources, available at: *https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/overview-sanctions-and-related-resources_en*

- The EEAS's Sanctions Division — a focal point for questions related to the sanctions mechanism and for coordination with civil society.

Submissions can be sent via email to the competent authorities in Member States and relevant stakeholders in Brussels (*sanctions@eeas.europa.eu; relex-sanctions@ec.europa.eu; cab-borrell-fontelles-contact@ec.europa.eu*). At the Member State level, it is advisable to narrow the circle of actors to those prioritising human rights issues and/or to whom designation may be of particular political interest.

The list of NCAs can be found here: https://www.sanctionsmap.eu/#/main/authorities.

In parallel to designations, which are confidential and may not be shared beyond the list of stakeholders, general recommendations can be prepared to address the issues related to sanctions legislation, enforcement gaps, and/or other aspects of sanctions implementation. Such recommendations can either be shared with limited targeted audiences or with the wider public and media to support the advocacy process.

Written submissions can be followed up with a series of meetings with representatives of Member States in selected capitals and/or in Brussels.

FACTORS THAT CAN IMPACT DESIGNATION REQUESTS:

An important factor in the success of designation requests is their timing in relation to the EU policy cycle. As mentioned earlier, decisions related to sanctions are taken by the Council following examination in the relevant Council working groups. The working groups meet regularly and scheduling of these meetings needs to be taken into consideration. The same goes for Council meetings, specifically the Foreign Affairs Council, where sanctions packages are adopted. The calendar for these meetings is available on the Council website and has to be considered when planning advocacy strategies for designations in the EU.

One can refer to official announcements from the EEAS, the Office of the HR/VP, and the Commission in order to stay up to date on policy developments surrounding sanctions and proposals for new packages.

It is also crucial to follow political discussions in the Council and examine previously adopted sanctions packages. Each package is often organised around a particular country, topic, and/or economic sector. After adopting sanctions packages, the EU publishes them in the Official Journal of the EU and issues an official press release where the package details are explained. Studying these materials can help to understand the rationale and argumentation used by the EU for the listings, which can be adapted for future submissions.

Another important consideration related to EU sanctions is their impact on their targets. As EU restrictive measures apply only within the EU's jurisdiction, their impact will be higher the more assets or financial interests the target has in the EU.

Finally, the high quality of submissions is a precondition for establishing trust and long-term cooperation with EU institutions. The stakeholders in question receive a large amount of materials related to sanctions daily. Networking in Brussels and/or acting as a part of a broader coalition of expert organisations can help one's designations to stand out. However, only submissions with a solid evidentiary basis and proper legal argumentation will be considered by the competent authorities.

Annex 1: Sanctions Application Template EU

SUBMISSION PURSUANT TO [(A)] [FRAMEWORK][; AND (B) [FRAMEWORK]][65]

Targeting [names]:
for [brief description]

* * *

Submitting Organisations:

[Name 1]
[Name 2]

Advised by:

[Partner lawyers]

[DD MONTH YYYY]

CONFIDENTIAL

65 EU e.g.: COUNCIL REGULATION (EU) 269/2014 (AS AMENDED)

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Introduction

[Name] and [name] (the "**Submitting Organisations**"), advised by [legal advisors] submit the present request to [authority][66] pursuant to [legal framework][67] [and its subsequent amendments] (the "Regulation").

This submission targets [add description of the targets – who they are, what they do, if there are multiple targets what unites them (i.e. why did we group them into a single submission). The objective here is to catch the attention of the reader and signal our main reason for pursuing the targets]:

(1) **[Name Middle-name SURNAME]**, a [brief description], who [brief explanation justifying designation]; and

(2) **[The entities of the [NAME] GROUP]**, a corporate group founded, co-owned, and managed by, and therefore associated with, [NAME] and [NAME]. The [NAME] GROUP has [brief description justifying designation].

The Submitting Organisations therefore respectfully request that the targets be designated under the Regulation on the following grounds:

(a) **Name SURNAME:** responsible for [brief description justifying designation] (under [Article/Section/Regulation/etc] [XX] of the [Regulation]); and

> *[Note: if there is only one target or if all targets are sanctionable under the same set of grounds, then just have one paragraph summarizing the applicable grounds, or group targets together based on common designation grounds where appropriate]*

Etc, etc. As set out in detail in section [VI(B)] below, the requested designations align with EU policy and interests. [Should make reference to current and previous designations against similar targets/those in the same industry]

66 EU: the Council of the European Union ("EU Council").

67 EU e.g.: Council Regulation (EU) 269/2014 and its subsequent amendments (the "Regulation").

The targets

A. [Name]

Full name and aliases:		[Insert picture]
Addresses:		
Date of birth:		
Place of birth:		
Nationalities:		
Identification card numbers:		
Positions/titles held:		
Father and/or mother names:		
Spouses:		
Children:		
Other family members/associates:		

B. [Name] Group

Parent Company:	
Registered address:	
Date of incorporation:	
Country of incorporation:	
Identification numbers:	
Ownership/control:	
Description:	
Group structure:	

C. Assets

There is reasonable basis to conclude that [detail potential assets].

[After first conducting research for section IV "Summary of Evidence" below, you should prepare a list of the key targets and associates, particularly those who are believed/reported to hold assets in the jurisdiction of question. Investigative partners can help with conducting asset tracing to identify any assets/leads.]

Background and context

[This section may not be necessary, depending on complexity of case and narrative that needs to be established.]

Summary of evidence

D. [Heading 2 in sentence case]

[In this section you should set out the evidence supporting the allegations relating to the specific event/conduct/key target(s) (individuals or entities). You should:

1. **Identify the focus of the investigation** – this could be a specific event, pattern of events/conduct, and/or a key target(s).

2. **Conduct open-source research to develop a comprehensive background; identify what happened, surrounding circumstances, who was responsible, and with what consequences.** You should enter the key aspects of the case in bullet-point/short form narrative in this template, which will become an outline for the submission. From the start, it is very important to provide citations for each and every assertion that you are making (the tidier you make your footnotes from the start, the easier your life will be later…). Begin to think about which evidence is missing, and prepare a list of investigative requests (using the relevant template).

3. **Gather evidence linking key targets to the event/conduct in question.** Evidence might include media sources, NGO or civil society reporting, contracts for supply or procurement (see online open data portals documenting corporate activities), and/or company websites reporting on activities of key targets. Again, enter this information in this template/outline, and add any missing evidence/information to your investigation plan.

4. **Gather evidence on all persons and entities associated with key targets:**

    a. If the target is an entity, trace its corporate structure, identify shareholders, identify subsidiaries and key suppliers/clients;

    b. If the target is an individual, identify all family members and key associates (particularly those who are business partners and/or nominees/proxies in corporate structures and business arrangements).

5. **Gather biographical information on all individuals/entities** involved in/associated with the chosen event/conduct or key target (see the biographical information required in section II "The Targets" above).

6. When you have a reasonably good understanding of the case, you should **think about which provisions of the relevant legal framework you will seek to rely upon in requesting the designations.** You can also include these provisions in Section V below. Where there are many targets, it might be helpful to set out in a table (a) the targets, (b) the conduct justifying their designation, and (c) the provisions that you will rely upon to request their designation. As you do this, consider again which information is needed or appears to be missing to make out the key aspects of the case.

7. You should then finalise your investigative plan and try to locate the missing evidence/information. You do not necessarily have to wait until this point to investigate – it may be apparent earlier in the process that there is key information missing. Similarly, it may be more efficient to conduct investigations in relation to the key conduct/primary targets first, and then to look into associates/ family members etc.

E. [Heading 2 in sentence case]

F. [Heading 2 in sentence case]

G. [Heading 3 in sentence case]

[text text text]

H. [Heading 3 in sentence case]

I. [Heading 2 in sentence case]

[text text text]:

quote quote quote.

Applicable law

[Provision] of the Regulation provides that the following categories of persons (among others) qualify for designation under the EU sanctions regime, under the below sub-paragraphs:

Reasons for designation

J. The Targets fall within the designation criteria

i. *[Heading 3 – first sub-provision of relevant regulation/executive order]*

[text text text]

ii. *[Heading 3 – second sub-provision of relevant regulation/executive order]*

[text text text]

K. The requested sanctions are proportionate and align with EU policy and interests

[Should make reference to current and previous designations against similar targets/those in the same industry]

[text text text]

Discussion of contrary evidence and arguments

[text text text]

Request

For the foregoing reasons, the Submitting Organisations respectfully request the [authority] to designate the following [Individuals and Entities] under the Regulation:

1. Name Middle-name SURNAME; and

2. **The [NAME] GROUP** (namely [Parent Company] and its partly and wholly owned subsidiaries).

The Submitting Organisations also respectfully request the [authority] to take appropriate action to seize the following [assets] reasonably believed to be owned by NAME:

a. [asset].

Respectfully submitted.