Hennebel Avocats

PRAXIS · GUIDE

International sanctions: a practical guide

Hennebel Avocats Modus Operandi

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INTERNATIONAL SANCTIONS, DELISTING AND COMPLIANCE STRATEGY

Before you read on: if the situation is unfolding, contact the firm in confidence.

Crisis Room - Praesidium
A newly published designation, a blocked account, a transaction suspended by a bank, a summons or a search in connection with a sanctions matter calls for an immediate, confidential assessment before you read the guide in full. Urgent situations receive priority (Crisis Room). Encrypted channels available: Signal, Threema. WhatsApp for rapid coordination. Secure upload for sensitive documents. *This guide cannot replace a consultation. It offers guidance. Decisions require an assessment of your circumstances.*

Urgent contact

Operational summary

Designation on a sanctions list is a preventive measure that may be adopted without a prior trial. Depending on the regime and the circumstances of the person concerned, it may deprive them of the use of their property or restrict their movements for a prolonged period, irrespective of any criminal conviction. Depending on the applicable instrument, the person's funds and economic resources are frozen, it becomes unlawful to make any asset available to them, their accounts are blocked, their business partners withdraw and their ability to travel may be impaired. The effects extend to their family, their companies and anyone deemed to be owned by or dependent on them. The first premise of this guide is that neither an emotional response nor improvisation can address that shock. It requires precise identification of the regime concerned, a detailed account of its effects and a strategy that establishes when and how to challenge the measures.

Sanctions law is fragmented by design. Under Article 41 of the Charter, the UN Security Council adopts measures not involving the use of armed force, which sanctions committees implement. The European Union acts through common foreign and security policy decisions under Article 29 of the Treaty on European Union and regulations adopted under Article 215 of the Treaty on the Functioning of the European Union. In the United States, the International Emergency Economic Powers Act of 1977 provides one of the legal bases for the lists administered by the Office of Foreign Assets Control (OFAC), with their 50 % rule on ownership of entities. The United Kingdom administers its own regimes under the Sanctions and Anti-Money Laundering Act 2018 through the Office of Financial Sanctions Implementation (OFSI). France maintains a national freezing regime under its Monetary and Financial Code, implemented by the

Directorate General of the Treasury. Although it is outside the Union, Switzerland generally adopts EU regimes through Federal Council ordinances based on the Embargo Act of 2002 and implemented by the State Secretariat for Economic Affairs (SECO), while retaining sovereign discretion. The same person may be designated under one regime and remain unlisted under another. The grounds, standards of proof and remedies may all differ. Treating these regimes as a single body of law is the analytical error most likely to defeat a delisting strategy.

The second premise of this guide is that successful challenges depend on method. Indignation carries little weight. In the European Union, administrative review by the Council and judicial proceedings before the General Court serve distinct and complementary purposes. The grounds that succeed in court are strikingly straightforward - failure to state reasons, an insufficient factual basis, infringement of the rights of the defence. The Court of Justice established the framework for this review in its judgment of 3 September 2008 in Kadi and refined it in Kadi II in 2013, which requires at least one of the grounds relied on to be substantiated in sufficiently specific and concrete terms. In the United States, delisting is an administrative process involving negotiation. A petition for reconsideration before OFAC must present a documented case, rather than an oral advocate's argument. At UN level, a person listed under the regime targeting Al-Qaida and Islamic State has access to the Office of the Ombudsperson, established by resolution 1904 (2009) - a distinctive mechanism whose precise scope must be understood before placing any hopes in it.

The third premise is that sanctions law extends beyond the terms of the sanctions instruments. Overcompliance governs the daily lives of designated persons - and of many who have never been designated. Banks close accounts as a precaution, insurers terminate cover, counterparties require assurances that no one can provide, and compliance databases continue to circulate information long after delisting. This de-risking requires a strategy of its own, distinct from the challenge to the designation. Equally, a company or bank exposed to a sanctions regime must understand its obligations to freeze assets and refrain from making them available, the criteria for ownership and control, its exposure to secondary sanctions and the criminal law implications of Directive (EU) 2024/1226. The Directive requires Member States to criminalise violation and circumvention through national implementing legislation, the status of which must be checked in each jurisdiction as at the date of the conduct. The twelve steps that follow address both readers: the designated person seeking delisting and the exposed operator seeking a sound course of action.

The order of the steps reflects the strategy. First identify the applicable regime (step 01), then assess its effects (step 02) and protect immediate interests (step 03). Understand the UN system before choosing a remedy (step 04). Pursue both avenues for challenging an EU designation (steps 05 and 06) and seek delisting in the United States and the United Kingdom (step 07). Make use of the derogations that sustain the person throughout the proceedings (step 08). Organise daily life under sanctions (step 09), protect the company and the bank (step 10), anticipate criminal exposure (step 11) and prepare for delisting and rehabilitation from day one (step 12).

Executive brief: decisions in ten minutes

Executive decision. Assess each regime separately and protect every deadline. A person or company may be designated under one system and remain unlisted under another, or may be affected by sectoral restrictions without being listed by name. The strategy must distinguish the legal basis, direct and indirect effects, avenues of challenge, licences and banking implications. The objective extends beyond delisting to the lawful continuation of activities during the proceedings and economic rehabilitation after the decision.

Desired outcome. Preserve rights, access to lawfully available funds and the ability to mount a defence while developing a coherent route to review, judicial challenge or delisting under each regime.

Sequence of action

- **Mapping** Identify each designation instrument, the criterion applied, the entities affected through ownership or control, and the transactions suspended. Deliverable: the precise scope of the freeze.
- **Continuity** Secure essential expenditure, fees, licences and derogations, and maintain communications with banks. Deliverable: the continuing ability to act.
- **Challenge** Pursue the appropriate avenue under each regime concerned (UN, European Union, OFAC, United Kingdom, Switzerland) and coordinate the timing of administrative review and judicial proceedings. Deliverable: a case for delisting across the relevant regimes.
- **Rehabilitation** Consolidate delisting, correct compliance databases and demonstrate the updated legal position to banks and business partners. Deliverable: a return to economic activity.

Critical mistakes

- Assuming that delisting under one regime automatically entails delisting under the others.
- Moving assets, transferring shares or restructuring without a written analysis or authorisation. Such transactions supply the evidence for circumvention prosecutions.
- Waiting until resources are exhausted before seeking lawful funding for the defence.
- Making public statements without assessing their impact on challenges and counterparties.

Questions for management

- Which authority can first provide effective relief and strengthen the other steps being taken?

- Which flows of funds or goods must be stopped, licensed or documented immediately?
- What evidence will persuade banks after formal delisting?

*This summary provides initial guidance. It cannot replace an analysis of the case file or verification of the law applicable at the time of action. The twelve steps below give the details.***

01

Identify the applicable sanctions regime

Timing: **immediate** · Output: a map of the applicable regimes, legal bases and grounds

Before asking "What should we do?", ask "What exactly applies?" The term "sanctions" encompasses measures of different legal kinds. They are challenged before different bodies, produce different effects and are governed by different standards. Before taking any action, establish separately for each regime whether the person or entity is designated, on which list, on what legal basis, for what published reasons and since what date - time limits for bringing proceedings sometimes run from publication.

UN regimes. Under Article 41 of the Charter of the United Nations, the Security Council adopts measures not involving the use of armed force: asset freezes, travel bans, arms embargoes and sectoral restrictions. Under regimes with a UN list, the relevant committee comprises the members of the Council. Resolution 1373 (2001), by contrast, entrusts States with identifying the persons and entities whose assets must be frozen. UN Member States are bound to implement these measures in their domestic legal orders. Within the European Union, implementation takes place through Union acts, a distinction of decisive importance when challenging a measure. The most developed regime is that targeting Al-Qaida and Islamic State under successive resolutions 1267, 1989 and 2253. As at 29 October 2026, it was the only regime with an independent mechanism for examining delisting requests - the Office of the Ombudsperson, discussed in step 04.

European Union regimes. The Union adopts its restrictive measures in two stages. First, the Council adopts a common foreign and security policy decision under Article 29 of the Treaty on European Union. For economic and financial measures, a regulation follows under Article 215 of the Treaty on the Functioning of the European Union and is directly applicable in all Member States. This two-part structure has practical consequences. It determines which acts may be challenged, which court has jurisdiction and which pleas are available. EU regimes implement UN sanctions, operate autonomously or combine the two sources - they include country-specific sanctions, the global human rights sanctions regime and thematic regimes.

Individual designations appear in the annexes to the acts, together with a statement of reasons. As will be seen, the quality of that statement is the system's principal vulnerability.

US regimes. In the United States, most economic sanctions are based on national emergencies declared under the International Emergency Economic Powers Act of 1977 and are implemented through executive orders. The Office of Foreign Assets Control (OFAC), within the Department of the Treasury, administers the lists - foremost among them the Specially Designated Nationals (SDN) List - and issues licences. Three features distinguish the US approach. The first is its express extraterritorial reach through a US nexus (dollar transactions cleared through the US financial system, US persons). The second is the 50 % rule on ownership of entities, explained in step 02. The third is the availability of secondary sanctions, discussed in step 10, under which foreign operators with no US nexus may themselves face designation.

UK and national regimes. Under the Sanctions and Anti-Money Laundering Act 2018, the United Kingdom establishes its own regimes. The Office of Financial Sanctions Implementation (OFSI) administers their financial aspects, and designations are subject to ministerial review followed by judicial review. Like other States, France also has a national asset freeze mechanism under Articles L. 562-1 et seq. of the Monetary and Financial Code, implemented by the Directorate General of the Treasury and used in particular in terrorism cases. National measures are frequently overlooked in the initial assessment, although they may affect persons who appear on no international list and fall within the jurisdiction of the national courts.

The Swiss regime. Switzerland operates an autonomous regime. Treating it as merely giving effect to EU measures would misstate its position. Its powers derive from the Federal Act on the Implementation of International Sanctions - known as the Embargo Act (EmbA), adopted in 2002 - which empowers the Federal Council to enact coercive measures to implement sanctions imposed by the United Nations, the Organization for Security and Co-operation in Europe or Switzerland's principal trading partners. In practice, Switzerland, which is outside the European Union, generally adopts EU sanctions regimes through Federal Council ordinances specific to each regime - but only after exercising its sovereign discretion. In keeping with its neutrality, it retains the option to omit particular measures or adjust their scope. This discretion makes Switzerland a distinct regime that must be mapped in its own right. Its position cannot be inferred from EU law. The State Secretariat for Economic Affairs (SECO) is the administrative authority responsible for implementation. It maintains the lists, examines applications for authorisations and derogations, and takes individual decisions on those matters. Delisting may fall within the remit of the supervising department (step 07). The effects on designated persons follow the familiar pattern of a freeze on funds and economic resources and a prohibition on making them available. Their reach reflects Switzerland's role as a financial and banking centre, examined in step 09, which leaves account holders, wealth management structures and family offices particularly exposed.

The assessment must also distinguish **individual sanctions** - asset freezes and prohibitions on making funds and economic resources available to named persons and entities - from **sectoral sanctions**, which restrict

categories of transactions (financing, goods, services, technology) involving specified sectors or actors without freezing all their assets. A company may be affected by sectoral restrictions without being designated. A person designated under one regime may be free of restrictions under another. The extent of exposure must be established list by list, with precise references to the instruments concerned.

What to gather

- **Precise references to the designation instruments**: resolution and sanctions committee, CFSP decision and EU regulation with their annexes, executive order and OFAC programme, OFSI regime, Swiss Federal Council ordinance (SECO), national order
- **Published statement of reasons** under each regime (annex to the EU acts, OFAC press release, entry on the UK Sanctions List, the sole list of UK designations since 28 January 2026)
- ****Dates of individual notification and publication** of each listing - the starting points for the time limits for bringing proceedings (two months and ten days before the EU General Court, step 03)**
- **Correspondence from banks and counterparties** identifying the basis on which they have blocked or declined a transaction
- **Complete chart of asset holdings**: companies, shareholdings, accounts, trusts and authorised representatives - a prerequisite for analysing ownership and control

What not to do

- **Reasoning by analogy across regimes**: a ground, standard or derogation specific to OFAC cannot be transposed to the EU regime, or vice versa
- **Assuming that absence of designation means absence of exposure**: sectoral restrictions and the rules on ownership and control reach unlisted parties
- ****Delaying verification of listing dates**: in the Union, time runs from valid individual notification or, if direct notification is impossible, from the end of the fourteenth day following publication of the notice in the Official Journal**
- **Moving assets "as a precaution"** before assessing the legal position: the transaction may be construed as circumvention

> *Key takeaway*
> "Sanctions" do not constitute a single regime. There are distinct regimes - UN, European Union, OFAC, OFSI, Switzerland (EmbA/SECO) and national mechanisms - each with its own legal bases, grounds, effects and remedies. **Every strategy begins by mapping the applicable regimes separately.** Treating the case as an undifferentiated whole puts it on the wrong footing from the outset.

02

Assess the actual effects of designation

Timing: **immediate, in parallel with step 01** · At stake: the precise scope of the freeze and prohibitions, and the entities affected

The asset freeze is the principal effect of designation and is almost universally misunderstood. Freezing differs from confiscation. The designated person retains ownership of their funds and economic resources but loses the power to dispose of them - any movement, use or alteration that would enable the person to derive benefit from them is blocked, including, for economic resources, their sale, hire or mortgage. The freeze extends beyond bank accounts to "economic resources". These are assets of every kind, tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services - real estate, works of art and vehicles, for example. Claims, securities, stocks and shares fall within the definition of funds and are likewise frozen. The distinction between freezing and confiscation has practical consequences. It underpins the proportionality argument in a challenge and explains why, in principle, removal from the regime restores the power to dispose of the assets - subject, as at 29 October 2026, to an important qualification under Directive (EU) 2024/1260 on asset recovery and confiscation. The deadline for its transposition was set at 23 November 2026. The Directive provides for confiscation of the proceeds and instrumentalities of criminal offences within its scope, which, under Article 2(1)(p), includes Directive (EU) 2024/1226 on offences involving the violation and circumvention of restrictive measures. Delisting restores the power to dispose of assets unless there is another legal basis for blocking them. The absence of proceedings against the holder is insufficient. Under specified conditions, Article 13 permits confiscation of proceeds or property transferred to a third party who knew or ought to have known that the purpose of the transfer was to avoid confiscation, subject to the rights of bona fide third parties. The reach of these measures depends on national implementing legislation, which must be monitored as it develops.

The second effect is less visible and more formidable: the **prohibition on making funds or economic resources available**. No one may make funds or economic resources available, directly or indirectly, to or

for the benefit of a designated person. This prohibition turns designation into economic exclusion. Every potential counterparty - bank, employer, landlord, customer, supplier or family member - becomes a point at which the regime takes effect. A designated employee can no longer dispose of their salary without a derogation, nor can a designated shareholder dispose of their dividends. Where the regime permits, as Article 7 of Regulation (EU) No. 269/2014 does under the Russia regime, those sums may be credited to a frozen account, where they remain frozen. An institution receiving a transfer from a third party within the meaning of paragraph 1 must inform the competent authority without delay. Outside the permitted cases, a third party that makes funds available incurs liability in its own right. Some regimes also prohibit entry into and transit through the territory of the States applying the measure and prohibit certain services (including, within certain limits, legal services, as well as accounting and advisory services). Their scope varies by regime.

The third effect is the **extension to owned or controlled entities**. Under US practice, the 50 % rule - as revised by OFAC guidance of 13 August 2014, which established the aggregation of ownership interests - treats as blocked any entity owned 50% or more, directly or indirectly, by one or more blocked persons, including in the aggregate, even if the entity appears on no list. The test concerns ownership. Control without 50% ownership does not bring an entity within the rule, although OFAC warns of the risks of dealing with such an entity and retains the power to designate it separately. In its *Guidance on Sham Transactions and Sanctions Evasion* of 31 March 2026, OFAC reiterates its functional approach to an ownership interest, looking to practical and economic realities over legal form. By its own terms, this explanatory document does not have the force of law or alter the legislation or the obligations arising from it. It supplements the 50 % rule with criteria for assessing whether a divestment is genuine and sets out the approach OFAC intends to apply, including in enforcement actions. A transfer that conceals a blocked person's continuing interest instead of extinguishing it leaves that interest blocked, even where apparent ownership has fallen below 50%. Under the Russia regime, Article 1(i) and (j) of Regulation No. 269/2014, as amended by Regulation 2025/2037, defines ownership (50% or more, or a majority interest) and control. The Council's non-binding Best Practices of 3 July 2024 give guidance on, among other matters, aggregation of shareholdings and indicators of control. In *EM System* (C-84/24, 12 March 2026), concerning the Belarus regime (Regulation (EC) No. 765/2006), the Court of Justice held that a freeze extends to an unlisted company's funds where they are owned, held or controlled by a listed person. A 50% holding raises a presumption of such control, which Member States must allow the parties concerned to rebut. Making funds available to such an entity may also constitute indirectly making them available for the benefit of the designated person. The two approaches overlap but remain distinct. The US rule rests on ownership alone, while EU practice also recognises control and a rebuttable presumption. For the designated person and their business partners alike, the analysis of ownership and control is therefore central to the case. It determines which companies can continue operating and which must stop.

Finally, assess the **knock-on effects** that appear in no legal instrument: account closures in third States, cancellation of insurance, early calls for repayment of financing, card suspensions, removal from platforms

and entries in private compliance databases that inform decisions at thousands of institutions. These effects also reach relatives and associates who have never been designated. Step 09 addresses how to manage them. Anticipation begins here, with a candid inventory of everything in the life of the person or business that depends on a counterparty that might withdraw.

ILLUSTRATIVE CASE · OWNERSHIP AND CONTROL

An entity more than 50% owned by a designated person - *without appearing on any list*

Anonymised scenario drawn from the published practice of sanctions authorities on ownership and control.

Profile

An operating company established in a third State is 60% owned by a shareholder on the SDN List and in the annexes to an EU regime.

Situation

The company is not designated under any regime. Its banks nevertheless freeze its accounts and its counterparties suspend payments, citing OFAC's 50 % rule and the risk of indirectly making funds available under EU law.

Analysis

The banks' response is consistent with the two regimes to the extent that they apply (institutions subject to EU law, US persons, transactions with a US nexus). For other banks, the response is a matter of managing risk, particularly the risk of secondary sanctions. On the merits, majority ownership by a blocked person entails blocking of the entity under US rules. Under EU rules, it raises a rebuttable presumption of control that extends the freeze to the entity's funds. Under the regime examined in EM System, the company can **challenge the freeze** before the national authorities and, where appropriate, in court by proving that the listed shareholder neither holds nor controls the funds. A genuine disposal that brings ownership below the thresholds and entails an actual loss of control offers another avenue. The disposal must itself be lawful. It is necessary to establish which regimes apply to the sale of the shares, obtain every authorisation they require and distinguish the effects of the transfer on future transactions from the position of property already blocked.

Lesson

A cosmetic restructuring makes the position worse - it fuels suspicion of circumvention (step 11). A genuine, transparent and documented restructuring requires the jurisdiction of each authority to be established before the disposal. In the Union, if the disposal concerns frozen shares and falls within the applicable regulation, it requires authorisation under a derogation provided for in that regulation. The availability and conditions of a derogation must be checked under each regime. Any proceeds accruing to the designated person remain frozen. Under OFAC's published guidance, the United States may recognise an unlicensed divestment if it takes place entirely outside US jurisdiction, involves no US persons and reduces aggregate ownership by blocked persons below 50%. Property already blocked in the United States or in the possession or control of a US person remains blocked under the conditions specified in FAQ 402. A sham disposal that conceals a continuing ownership interest leaves that interest blocked (step 02). Neither a market price nor transparency can substitute for an authorisation required under an applicable regime. These checks must precede any irreversible transfer.

Key point

Designation has three sets of effects. The **freeze** immobilises the designated person's assets. The **prohibition on making funds or economic resources available** turns each third party into an agent of implementation. The **extension to owned or controlled entities** operates through different rules - OFAC applies the 50 % rule, while the Union freezes funds owned, held or controlled by the listed person (with a rebuttable presumption at 50%) and prohibits making funds available indirectly. Measuring the true reach of a designation requires examining all three effects, beyond the name on the list.

03
Take immediate action following designation

Timing: **first few days** · At stake: protecting deadlines, subsistence and the defence - without giving rise to a criminal case

The first few days after designation shape what follows, for better or worse. Three matters require immediate attention: preserving remedies, organising subsistence and avoiding any action that could support a future circumvention case. The order of priority matters less than dealing with all three at once - precisely what makes this period dangerous for a person acting alone.

Protect deadlines and secure information. In the European Union, an action for annulment of designation acts must be brought within two months (sixth paragraph of Article 263 TFEU), extended by a single period of ten days on account of distance. Time runs from valid individual notification to the person concerned. Delivery to their lawyer requires a mandate clearly and unequivocally authorising the lawyer to receive the act in question. Only where direct notification is impossible may the authority resort to a notice in the Official Journal, in which case time runs from the end of the fourteenth day following publication. The time limit is mandatory. A late action is inadmissible, the General Court must raise lateness of its own motion, and a reference for a preliminary ruling cannot cure the time bar (step 06). There is no basis for treating the time limit as suspended while the Council considers a request for review. Proceedings must be brought without waiting for the Council's response. A subsequent act maintaining the listing may be challenged within its own time limit. It does not reopen the time limit for challenging the initial listing. It is therefore necessary to establish the date of each listing immediately, identify the acts open to challenge and request the statement of reasons and the material in the Council's file. The person has a right to request that material, and the response will shape all subsequent steps. Some regimes also require designated persons to report their own assets. Under the EU Russia regime, Article 9(2) of Regulation (EU) No. 269/2014, as amended by Regulation

(EU) 2022/1273, requires them to report funds and economic resources located in a Member State to that State's competent authority within six weeks of listing and to cooperate in their verification. Failure to comply is considered participation in circumvention (paragraph 3 of the same Article), conduct that Directive (EU) 2024/1226 requires Member States to criminalise. The same care is necessary under other regimes, where any comparable reporting obligation must be checked. Each authority has its own procedures, forms and contact points, and an ill-judged first communication can impair the case from the outset.

Arrange subsistence through lawful channels and use them exclusively. Asset freeze regimes provide for exceptions, general licences or individual derogations for basic expenses - food, rent, medical care, taxes and insurance - and for legal expenses, as detailed in step 08. First establish whether an exception or a general licence covers the expense and, if neither does, apply for individual authorisation. Pride or mistrust in making such a request can drive designated persons towards informal channels that expose them to criminal liability. The application requires preparation: a documented budget, identified accounts, supporting records and a bank willing to process the authorised transactions - often the greatest practical difficulty, as step 09 shows.

Do not build the prosecution's case. The immediate temptation - to transfer assets to relatives, change account holders, backdate disposals or move funds through shell companies - corresponds precisely to conduct that sanctions regimes now criminalise as circumvention and that Directive (EU) 2024/1226 requires Member States to punish through criminal law. Authorities with access to banking data will scrutinise every post-designation movement of assets retrospectively. A strict rule protects the person concerned: no movement of assets without prior legal analysis, and a contemporaneous record of every decision. Resist the impulse to make an unprepared public statement as well. A hasty communication commits the defence to a factual position it will have to sustain in every proceeding.

What to gather

- **Calendar of challenges: dates of notification and publication, acts open to challenge**, and periodic review deadlines for each regime
- **Request for access to the file** addressed to the designating authority (statement of reasons, supporting evidence)
- **Documented subsistence budget** for derogation applications: basic expenses, legal expenses and family commitments
- ****Dated inventory of assets** as at the date of designation - an evidential baseline for subsequently demonstrating the absence of suspicious movements and the basis for asset declarations required by certain regimes (six weeks from listing under the EU Russia regime), with proof of filing with each competent national authority**
- **Case timeline**: political or economic context of the designation, publications and parallel proceedings

What not to do

- **Transferring assets to relatives or legal structures** after designation: such transfers supply the evidence for a circumvention case
- ****Letting the EU time limit run** while waiting "to see what happens": the mandatory period is two months and ten days, and late proceedings are inadmissible**
- **Relying on informal channels for living expenses** instead of applying for subsistence derogations
- **Making public statements** before assessing the legal position and coordinating the response: every word will be used against the defence
- **Retaining multiple advisers who do not coordinate**, each giving a different authority a different account of the facts

Common mistake
Assuming that a "political" designation requires a political response. Acts of defiance - movements of assets, use of nominees, vehement public statements - do nothing to relax the freeze. They create a **second case, this time a criminal one**, which will outlast the challenge to the designation and make delisting more difficult. The defence of a designated person begins with impeccable asset management and record-keeping.

04

Understand the UN system - committees, the Ombudsperson and the humanitarian exemption

Timing: **before choosing a remedy** · At stake: understanding what can and cannot be achieved at UN level

The UN occupies the highest level of the system and affords the least scope for judicial challenge. Measures adopted by the Security Council under Article 41 of the Charter bind Member States, and the Charter gives obligations arising under it precedence over States' other treaty obligations. A person listed by a sanctions committee has no court before which to challenge the listing directly. This asymmetry - individual measures with overwhelming effects and no court to review them - is the structural weakness of the system. It has driven the major litigation of the past twenty years.

What is available at UN level. Each sanctions committee considers delisting requests, generally submitted by the State of nationality or residence, or filed by the person concerned with the Focal Point for Delisting established within the Secretariat. Outside the 1267 regime, resolution 2744 of 19 July 2024 governs requests filed since its adoption. Earlier requests remain subject to resolution 1730 (2006), unless withdrawn without prejudice and refiled before a decision. Under the new procedure, the Focal Point gathers information from the States concerned and other entities over four months, subject to extension. A two-month consultation period follows, renewable once for up to two months, during which dialogue may take place. The Focal Point then transmits a confidential comprehensive report to the committee summarising the information and main arguments without making a recommendation. The request goes to the committee for decision under its ordinary procedures only if a committee member or a State concerned recommends that the process continue. If the request has not been put to a decision within two months of circulation of the report, it is deemed rejected. This is a structured examination of the request, without independent review. The regime targeting Al-Qaida and Islamic State under successive resolutions 1267, 1989 and 2253 was, as at 29 October 2026, the only one with an enhanced review body: the Office of the Ombudsperson, established by resolution 1904 (2009). The Ombudsperson independently examines delisting requests, gathers information from States, hears the petitioner and submits a report and recommendation to the committee. Under the mechanism introduced by resolution 1989 (2011) and most recently restated in resolution 2734 (2024), where the Ombudsperson recommends that delisting be considered, the measures cease to apply sixty days after the committee completes its consideration of the Ombudsperson's comprehensive report, unless the committee decides by consensus before the period expires to retain them or, in the absence of consensus,

a committee member requests that the matter be referred to the Security Council. The Council decides within sixty days, and the measures remain in force pending its decision - a procedural reversal that gives the Ombudsperson's examination real weight without conferring judicial authority. This mechanism has substantially improved the position of petitioners under this regime. It nevertheless remains a non-judicial body specific to a single regime, whose recommendations inform a final decision that remains political. Two practical rules follow. Outside the 1267 regime, counsel should avoid promising the client an independent examination culminating in a recommendation. The Focal Point procedure under resolution 2744 (2024) structures the examination but neither binds the committee nor guarantees that the request will be put to a decision. Counsel should also prepare the delisting request as a fully evidenced case, since the quality of the submission counts for more in securing delisting than the mechanism itself.

The cross-cutting humanitarian exemption. Resolution 2664 (2022) introduced a common humanitarian exemption from asset freezes under UN regimes. The provision of funds, goods or services necessary for humanitarian assistance or to support basic human needs is permitted for the actors listed in paragraph 1, including UN bodies and humanitarian organisations with observer status in the General Assembly. An NGO relying on the category of bilaterally or multilaterally funded NGOs must also participate in a UN humanitarian response plan or refugee response plan, another UN appeal or a humanitarian cluster coordinated by OCHA. An implementing partner is covered to the extent that it acts in that capacity. This exemption does not directly cover designated persons' own needs, for which the individual derogations in step 08 are relevant. It has, however, changed how the system operates for organisations working in areas where dealings with designated actors are unavoidable, and it now informs the design of the EU and national regimes that give effect to it. One qualification is important. For the regime targeting Al-Qaida and Islamic State, the exemption initially applied for two years. Resolution 2761 (2024) of 6 December 2024 maintained it without a time limit - its cross-cutting character nevertheless leaves it necessary to verify, for each regime and as at the date of the transaction, its scope and how it has been implemented in EU and national regimes. For companies and banks, it introduces a new compliance consideration. Sanctions law does not require a blanket refusal to process a transaction covered by the exemption. Such a refusal deprives the exemption of the practical effect the Security Council intended.

The tension between the Charter and European human rights protection. Litigation arising from the implementation of UN asset freezes has produced two lines of case-law that must be understood before choosing a forum. In *Nada v. Switzerland* (Grand Chamber, 12 September 2012, No. 10593/08), the European Court of Human Rights held that a State implementing a UN regime retains some latitude as to the means of implementation and must exercise it consistently with the Convention - in that case, with regard to the private and family life of a person confined to an enclave by a transit ban. The Court also found a violation of the right to an effective remedy (Article 13 taken in conjunction with Article 8). In *Al-Dulimi and Montana Management Inc. v. Switzerland* (Grand Chamber, 21 June 2016, No. 5809/08), the Court interpreted the resolution in harmony with the Convention and held that it did not exclude all

judicial scrutiny. The domestic court had to be able to verify that the listing was not arbitrary before giving effect to it. The absence of such scrutiny entailed a violation of Article 6 § 1 of the Convention. Having found no genuine conflict of obligations, the Grand Chamber did not have to decide either the question of primacy under Article 103 of the Charter or that of equivalent protection. The judgment presupposes a resolution that does not clearly exclude judicial review, a matter to be assessed under each regime. These judgments offer no route to annulment of UN listings. They open the way to challenges before national and European courts concerning the domestic means of implementation. Taken together with the Kadi case-law of the Court of Justice of the European Union (step 06), they indicate a realistic strategy for UN designations: challenge the acts implementing the resolution before a court with jurisdiction to review them.

Spotlight

No one brings proceedings against the Security Council. A strategy for challenging a UN designation focuses on its **implementing acts**: the EU regulation (the Kadi case-law), the national implementing measure (the European Court of Human Rights judgments in *Nada* and *Al-Dulimi*), and the delisting request to the committee - supplemented, under the regime originating in resolution 1267 alone, by the Ombudsperson's independent examination. Four distinct avenues address the same listing.

Contact Hennebel Avocats

Has a designation been published or an account frozen? Do you need to identify the applicable regimes or develop a strategy for challenging the measures? Urgent situations receive priority.

Contact the firm

05
Challenge an EU designation through administrative review

Timing: **upon receipt of the statement of reasons and at each subsequent periodic review** · Output: written observations to the Council and a case for delisting

An EU designation can be challenged through two compatible avenues: administrative review before the Council and judicial proceedings before the General Court. Treating them as mutually exclusive is a strategic error. Administrative review allows the person to build the case, request disclosure of the material relied on and sometimes obtain delisting without litigation. In judicial proceedings, the court can grant relief where the reasons or evidence are deficient. The administrative process lays the ground for the judicial one.

The right to be heard and access to the material. A designated person may request from the Council the statement of reasons for the listing and the material relied on against them, and then submit observations seeking review of the measure. This request has substantive value. The Council's response reveals the actual strength of the case - often reports, press articles and notes whose sources cannot be verified - and every failure to respond, every refusal of disclosure and every reformulation of a ground along the way can support an argument in court. Written observations should address two audiences: the Council working party that examines them and the General Court that will read them later. They should rebut each ground separately, provide supporting documents, propose verifiable undertakings where appropriate and avoid any assertion that the person could not maintain under oath in other proceedings.

Periodic review as an opportunity to act. EU restrictive measures undergo regular review under each regime, and fixed-term acts must be renewed when they expire. Each review offers an opportunity. The Council must consider whether the grounds still hold, Member States weigh their positions, and well-supported observations filed at the right time stand the best chance of changing a listing - through delisting, amendment of the grounds, or a fuller statement of reasons that may, paradoxically, assist the defence by at last identifying a specific basis to challenge. Review dates therefore require the same attention as litigation deadlines, and observations should be updated at each cycle. As a matter of law, failure to submit observations does not amount to acquiescence. It deprives the Council of the material the person would have provided, while leaving open a review on the basis of substantial new material from other sources.

What administrative review can achieve - and its limits. Review may result in delisting, particularly where the circumstances underlying the listing have changed, the material proves insubstantial or political support for the designation has weakened. The client nevertheless needs a clear account of the decision-making rules. A CFSP decision is in principle taken unanimously (Article 31 TEU), while a regulation is adopted by qualified majority (Article 215 TFEU). A single State may therefore prevent amendment of the decision providing for the listing. This explains both the availability of judicial proceedings and the need to prepare observations in every case with future litigation in mind. Every ground rebutted in writing, every document submitted and every unanswered request for disclosure will carry weight before the General Court.

What to gather

- **Statement of reasons and material disclosed** by the Council, with a timeline of requests and responses
- **Evidence rebutting each ground**: corporate records, contracts, witness statements, judicial decisions and expert reports
- ****Evidence of changed circumstances**: completed disposals, authorised in advance where the applicable regime so requires, resignations from office**, cessation of the activities relied on
- **Timetable for periodic reviews** under the relevant regime
- **A single, consistent account of the facts**, kept up to date and capable of being relied on in all parallel proceedings

What not to do

- **Neglecting administrative review** on the ground that it is "political": it provides a means of documenting objections and requesting delisting
- **Submitting emotional or accusatory observations**: a documented rebuttal carries weight where protest does not
- **Advancing unverifiable facts**: every assertion in the observations will be checked against the record in other proceedings
- **Allowing a review date to pass** without submitting updated observations

> *Key point*
> Administrative review and judicial proceedings are pursued **in parallel**. Observations to the Council allow the person to request disclosure of the material and build the record. The action before the General Court must be brought within its own time limit, even if the Council has yet to respond. A request for review is neither a condition of admissibility of the action nor a ground for suspending the time limit.

06

Challenge an EU designation before the General Court

Timing: two months and ten days from individual notification of the act (if direct notification is impossible, from the end of the fourteenth day following publication of the notice in the Official Journal). The time limit is mandatory · At stake: annulment of the designation acts

An action for annulment before the General Court of the European Union is the ordinary judicial remedy against designation acts. It must be brought through a lawyer and does not suspend the freeze. An application for interim measures must be lodged by separate document. It must demonstrate urgency, a risk of serious and irreparable harm and a prima facie case for the measure sought, subject to the balance of interests (Articles 278 and 279 TFEU and Article 156 of the Rules of Procedure of the General Court). The Court of Justice established the framework for review in *Kadi* on 3 September 2008 (C-402/05 P and C-415/05 P). EU acts implementing Security Council resolutions enjoy no immunity from judicial review. The EU Courts retain jurisdiction to examine them in the light of the fundamental rights protected by the EU legal order - the rights of the defence, the right to effective judicial protection and the right to property. The 2013 judgment in *Kadi II* gave the principle practical effect. The court must satisfy itself that the decision rests on a sufficiently solid factual basis, which entails verifying the facts alleged in the statement of reasons. Annulment is required if none of the grounds, considered individually, is sufficiently specific and concrete, substantiated and capable of supporting the measure on its own. As regards designations adopted under the common foreign and security policy, *Rosneft* (C-72/15, 2017) confirmed that their validity may also be examined on a reference for a preliminary ruling from a national court - a second avenue where the dispute arises in domestic proceedings. An important qualification applies. This procedure cannot remedy a failure to bring a direct action in time. It has been settled case-law since *TWD Textilwerke Deggendorf* (C-188/92, 9 March 1994), as recalled in paragraph 67 of *Rosneft* (28 March 2017), that a person who undoubtedly had standing to bring an admissible direct action and allowed the time limit to expire is precluded from challenging the validity of the act through

a preliminary reference. A person designated by name, to whom the measure is addressed, is precisely in that position. They must bring a direct action within the prescribed time - a preliminary reference cannot cure the time bar.

Grounds on which challenges succeed. The judgments cited distinguish three pleas with different purposes and evidential requirements. The order in which they should be examined depends on the objection to each act. The first is **failure to state reasons**. The statement must enable the person to understand the individual, specific and concrete reasons for their listing and the court to exercise its review. Standard wording and repetition of the regime's general criteria without individualised facts fall short. The second is an **insufficient factual basis**. Since Kadi II, it has been settled that the authority bears the burden of establishing that its reasons are well founded. The person has no obligation to prove them false. Press articles, publicly available profiles or reports may be relied on where, taken together, they constitute sufficiently concrete, precise and consistent evidence. Isolated, uncorroborated or undisclosed material leaves the measure vulnerable to annulment where the person mounts a detailed challenge. Conversely, a single substantiated ground may justify the measure if it is sufficiently specific and concrete and is sufficient by itself to support the listing under the applicable criterion. The third is **infringement of the rights of the defence and of the right to effective judicial protection**. Examples include failure to disclose adverse material as required, lack of an opportunity to respond before a listing is maintained on new material, and substitution of grounds during the proceedings. Maintaining a listing on the same grounds and material does not require fresh disclosure. The General Court's annulment of the measures against Bank Mellat (T-496/10, 29 January 2013), upheld on appeal in 2016, illustrates how this review operates. The EU Courts set aside designations that the authority could not substantiate before them. Substantive pleas - error of assessment in applying the criteria, proportionality and misuse of powers - address separate questions. To establish an error of assessment, the case file must allow the substantiated facts to be tested against the designation criterion invoked. The scope of review also depends on how broadly the regime defines the designation criteria. The broader the criterion, the greater the authority's discretion - and the outcome may turn as much on the interpretation of the criterion itself as on the strength of the facts.

The limits of a successful court challenge. A realistic strategy requires a clear explanation to the client of what annulment can and cannot achieve. Annulment applies to the acts challenged. It does not prevent the Council from relisting the person with a revised statement of reasons and new material - many people whose listings were annulled have been relisted shortly afterwards, and a second, better-reasoned listing is harder to overturn. Nor does annulment release the assets on the day of judgment. Under the second paragraph of Article 60 of the Statute of the Court of Justice, the General Court's annulment of a regulation takes effect only when the time for bringing an appeal expires or, if an appeal is brought, when it is dismissed. Under the second paragraph of Article 264 TFEU, the General Court generally maintains the effects of the annulled CFSP decision for the same period, allowing the authority time to act on the judgment, where appropriate by adopting a new listing. Litigation strategy must therefore anticipate relisting. Challenge each new adverse

act within its own time limit, by a separate action or by modifying the pending application where Article 86 of the Rules of Procedure of the General Court permits, while pursuing administrative review under step 05. A designation is rarely dismantled in a single decision. It is worn down, judgment by judgment, review by review.

ILLUSTRATIVE CASE · FACTUAL BASIS

The entrepreneur designated "by association" on the strength of *press articles*

Anonymised scenario drawn from publicly reported litigation concerning restrictive measures before the EU Courts.

Profile	A businessman is listed in the annexes to a country-specific regime on the basis of his association with a listed person. He disputes the alleged business ties.
The authority's file	A brief statement of reasons. The material disclosed on request comprises press articles, online biographical profiles and a report whose sources cannot be identified.
Strategy	Request full disclosure. Submit observations to the Council rebutting each assertion with supporting documents (registers, contracts and timelines). Bring an action for annulment alleging failure to give individualised reasons and an insufficient factual basis within the meaning of *Kadi II*. Challenge each renewal act in turn.

Lesson

The EU Courts require the authority to substantiate its reasons. The person has no obligation to prove their innocence. **An uncorroborated file of press reports, if seriously challenged, leaves the measure vulnerable to annulment. Press articles may nevertheless suffice where together they constitute concrete, precise and consistent evidence. A single substantiated ground may justify maintaining the listing if it is sufficiently specific and concrete and satisfies the designation criterion on its own. The rebuttal must therefore address each ground, document by document, and the breadth of the regime's criterion must be examined in its own right. The possibility of relisting on revised grounds must be anticipated from the first action.**

> *Key takeaway*
> Three grounds dominate designation litigation before the General Court: **statement of reasons** (individual, specific and concrete reasons), **sufficient factual basis** (the authority bears the burden of substantiation - *Kadi II*), and **rights of the defence** (disclosure of material, right to be heard). A successful challenge is prepared from the first observations to the Council - and relisting remains possible, requiring a fresh response at each cycle.

07

Obtain OFAC delisting and take action under other national regimes

Timing: **lengthy procedure, to be initiated without delay** · At stake: delisting from the SDN List, review of UK designations by the appropriate minister and challenges to national freezes

US delisting proceeds on a fundamentally different basis from EU litigation. A person on the SDN List may file a petition for reconsideration with OFAC, seeking delisting by demonstrating either that the facts available at the time did not justify listing or that the circumstances that originally justified the measure no longer exist. Relevant changes include severance of the ties at issue, lawful disposal of shareholdings (step 02), changes in conduct and the introduction of safeguards. The procedure is administrative, written and non-public, with no fixed deadline for a response. Since 29 June 2026, OFAC has strongly encouraged the filing of

petitions through an online portal (Reconsideration Portal) designed to collect the necessary information at the outset. The process may still involve questionnaires, requests for documents and, in substantial cases, extended dialogue with the administration. A federal court may review a final decision or an unreasonable delay under the Administrative Procedure Act, but accords deference to the executive. The administrative record is therefore the principal focus of OFAC delisting.

Three practical consequences follow. First, the petition is built around the **ground for delisting relied on**. If the listing was insufficiently founded, the petitioner supplies evidence of the position at the date of the decision. If circumstances have changed, the petitioner demonstrates why the designation is no longer justified - documented remediation, verifiable disengagement, transparency about structures and, on occasion, compliance undertakings. Second, **consistency across regimes is essential**. Statements to OFAC must be fully consistent with observations to the Council of the European Union, pleadings before the General Court and submissions in any national proceedings. Authorities read one another's decisions, and a contradiction identified in one forum undermines credibility in all of them. Third, **the client must be told how long the process may take**. Reconsideration can take months and often longer. Arrangements for subsistence and compliance under step 09 must reflect that timescale. Each OFAC questionnaire requires a response by the specified deadline or a request for an extension before it expires. Otherwise, OFAC may deny the petition. A subsequent request must then present new arguments or evidence to avoid rejection by reference to the first decision.

The United Kingdom and national regimes. Under the Sanctions and Anti-Money Laundering Act 2018, a designated person may ask the appropriate minister to vary or revoke the designation (section 23). After an initial request, a further request may be made only if it raises a significant matter that the minister has not previously considered. The person may then challenge the decision before the High Court or, in Scotland, the Court of Session, which applies the principles of judicial review (section 38). Section 25 applies to persons designated by reference to a UN list. Following the Supreme Court's judgment in *Shvidler* (29 July 2025, [2025] UKSC 30), the court must assess proportionality for itself while according the government wide discretion in national security and foreign affairs. Judicial review remains available but requires a particularly strong factual record - in practice, ministerial review based on changed circumstances is the principal avenue. OFSI deals with the financial aspects - licensing, interpretation and implementation. In France, national freezing measures under Articles L. 562-1 et seq. of the Monetary and Financial Code are imposed by order published in the Official Journal for a renewable six-month period. The administrative courts have jurisdiction, and proceedings may be brought within two months of valid notification of the order, subject to extensions on account of distance (Article R. 421-7 of the Code of Administrative Justice) and to interruption of the time limit by a request for reconsideration made to the issuing authority within that period (Article L. 411-2 of the Code on Relations between the Public and the Administration). Applications for authorisations and derogations are made to the Directorate General of the Treasury. In Switzerland, challenges follow the procedures of federal administrative law. The State Secretariat for Economic Affairs

examines applications for authorisations and derogations, whereas a delisting request may fall within the remit of a different authority - under the Ukraine regime, the Federal Department of Economic Affairs, Education and Research decided such a request at first instance (Federal Administrative Court, 18 March 2025, B-4084/2023, upheld by the Federal Supreme Court, 13 May 2026, 2C_212/2025). The decision may then be appealed to the Federal Administrative Court within thirty days of notification (Article 50(1) of the Federal Act on Administrative Procedure), and subsequently to the Federal Supreme Court within thirty days of notification of the full written decision (Article 100 of the Federal Supreme Court Act). These periods are subject to suspension during judicial recesses and to reinstatement where the party was prevented from acting through no fault of its own (Articles 22a and 24 of the Administrative Procedure Act and Articles 46 and 50 of the Federal Supreme Court Act). A late appeal is inadmissible. In principle, an appeal in public law matters is excluded for decisions concerning foreign relations unless international law confers a right to have the matter determined by a court (Article 83(a) of the Federal Supreme Court Act). In the judgment cited above, the Federal Supreme Court held that this qualification applies to coercive measures based on the Embargo Act, which affect civil rights within the meaning of Article 6 § 1 of the European Convention on Human Rights. The proceedings that gave rise to *Nada* and *Al-Dulimi* (step 04) also began in the Swiss courts and illustrate the scrutiny available in respect of the means by which Switzerland implements UN freezes. National remedies are too often treated as incidental. They are sometimes the fastest, and a favourable decision from a national court - concerning a domestic freeze or an implementing measure - becomes evidence in all the other cases. The guiding principle is constant. Each regime under which the person is listed requires its own delisting strategy, coordinated with the others but tailored to that regime.

> *Spotlight*
>
> Four approaches to delisting: the European Union **adjudicates** (statement of reasons and factual basis before the General Court), the United States **negotiates** (a petition demonstrating to OFAC that the original basis was insufficient or that circumstances have changed), the United Kingdom **reconsiders and then reviews** (ministerial review followed by judicial review), and Switzerland **decides and then allows appeals** (a decision by SECO or the competent department, depending on the subject matter, followed by appeals to the Federal Administrative Court and then the Federal Supreme Court). A global delisting strategy speaks all four languages while giving a single, consistent account.

08

Make use of derogations and licences

Timing: **from the first few weeks and throughout thereafter** · At stake: subsistence, the defence and lawful activity for the duration of the regime

Derogations make life under an asset freeze possible. No freezing regime purports to deprive the persons it targets of food or a defence. The regimes examined here provide for exceptions in various forms - individual derogations granted by the competent national authorities in the Union, OFAC general and specific licences, OFSI licences and authorisations from the Directorate General of the Treasury for French freezes. Understanding this aspect of sanctions law is as important as the challenge itself. It enables the person to meet living expenses, pay their lawyers and maintain such activities as can continue during the years that delisting proceedings may take.

Recurring categories. Four categories of derogation appear, with variations, in most regimes. They cover **basic expenses** - food, rent, loan repayments, medicines, medical care, taxes, insurance premiums and ordinary household bills. They also cover **legal expenses** - reasonable fees and disbursements incurred for the defence, including a challenge to the designation itself. The third category covers **extraordinary expenses**, assessed case by case. The fourth allows performance of **obligations predating the designation** - contracts, court decisions and security interests - subject to strict conditions, including the absence of any new benefit to the designated person. At UN level, resolution 2664 (2022) added the cross-cutting humanitarian exemption for eligible humanitarian actors examined in step 04. Each category has its own procedure, supporting documents and competent authority. In the Union, applications are made to the national authority of the State where the funds are held. A single budget may therefore require parallel applications in several Member States. Where the freeze implements a UN regime, there is an additional step. Under the regime originating in resolution 1267, resolution 1452 (2002), as amended by resolution 1735 (2006), makes authorisation of basic expenses conditional on prior notification to the sanctions committee and the absence of a negative decision within three working days. Extraordinary expenses require its approval. Comparable mechanisms must be checked under each other UN regime, and the application timetable must allow for them.

Preparing the application. An application for a derogation should be prepared as a submission to a bank, with a detailed budget supported item by item, specified accounts, identified beneficiaries, the period covered and an undertaking to account for expenditure. It calls for a different approach from a pleading in litigation. Excessive or opaque requests are rejected and undermine the credibility of those that follow. Over time, carefully framed applications build a record of authorised expenditure that can support a subsequent

request. Two practical difficulties predominate. The first concerns banking. A derogation does not oblige a bank to retain the client or process the authorised transaction. Finding an institution willing to act often takes as much effort as obtaining the authorisation - the subject of step 09. The second concerns timing. Authorisations cover defined periods and renewal must be anticipated. Otherwise, the person may spend several weeks without a lawful channel for ordinary living expenses.

What to gather

- **Itemised budget** with supporting documents: basic expenses, family commitments and payments due under contracts predating designation
- **Fee agreements and budgets for each phase** for the legal expenses derogation
- **Details of the accounts and banks that will process the transactions**, with the institution's agreement in principle where possible, without delaying an urgent application
- **References to comparable derogations** already granted under the relevant regime, where the practice is published
- **Timetable for renewing authorisations**, prepared several weeks in advance

What not to do

- **Filing a blanket, opaque request**: it will be rejected and impair the credibility of subsequent applications
- **Waiting until lawfully available funds run out** before applying: examination takes time and cannot be rushed
- **Obtaining authorisation without securing a bank** willing to process the transaction
- **Confusing the channels**: an expense covered by a derogation under one regime may remain prohibited under another

ILLUSTRATIVE CASE · LEGAL EXPENSES

Funding a defence under an asset freeze: the *legal expenses* derogation

Anonymised scenario drawn from the published practice of competent national authorities in granting derogations.

Profile

A person designated under an EU regime has assets frozen in two Member States and has initiated proceedings before the Council, the General Court and a national authority.

Problem

Defence fees can be paid only from frozen funds, which requires their release. Before the General Court, only an application for legal aid lodged in time on the mandatory form suspends the time limit for the applicant. The remaining period begins to run upon service of the order deciding the legal aid application or, in the case provided for in Article 148(6), the order designating the lawyer (Articles 146 and 147 of the Rules of Procedure).

Approach

Parallel applications to the competent national authorities of the States in which the funds are held, enclosing fee agreements and a budget for each phase, identifying the accounts through which the payments will pass and undertaking to account for expenditure. Liaise with the bank holding the account before filing to ensure that it will process the authorised transaction.

Lesson

A legal expenses derogation is a standard feature of freezing regimes - but the application must be made early, supported by precise documentation and **coordinated with the bank**. An authorisation that no bank will act on is a victory on paper.

Key point

Four categories of derogation shape life under an asset freeze: **basic expenses, legal expenses, extraordinary expenses and pre-existing obligations** - to which resolution 2664 (2022) added, at UN level, the cross-cutting humanitarian exemption for eligible actors. The application is prepared as a submission to a bank. Arrangements for processing the transaction are agreed with the bank before the application is even filed.

Before submitting observations to the Council, petitioning OFAC, restructuring assets or responding to a bank.

When to contact Hennebel Avocats

Before bringing proceedings for which time is already running, answering an OFAC questionnaire, restructuring a shareholding, applying for a derogation or making a public statement. Depending on the circumstances of the case file, the firm can advise directly or act as co-counsel alongside compliance teams, US and UK counsel, banks and family offices. Urgent situations receive priority.

Contact the firm

09

Live under sanctions: reverse compliance, overcompliance and bank de-risking

Timing: **throughout the duration of the regime** · At stake: maintaining lawful access to essential services as counterparties withdraw

Between designation and delisting lies a period - often several years - for which sanctions law makes little provision and which banking practice makes more difficult than the legislation itself. Designated persons, their relatives, their former companies and sometimes even people who merely share their name discover that what governs their economic lives is what financial institutions refuse to do, well beyond what the regulations prohibit. This phenomenon of **overcompliance** - the application by private operators of standards more restrictive than the law - and its most severe expression, **de-risking** - terminating a business relationship to

eliminate risk rather than managing it - require a strategy of their own. The phenomenon is particularly pronounced in the Swiss financial sector. The concentration of wealth management, international accounts and family offices goes hand in hand with a cautious approach to compliance. Swiss banks are exposed to US and EU regimes as well as Swiss rules and factor that exposure into their risk policies for relationships connected with designated persons. Those affected encounter both highly developed wealth management arrangements and a readiness to withdraw at short notice - making the reverse compliance strategy described below particularly important.

Reverse compliance. A person under sanctions must learn to do what banks do: document their own position under each regime. In practice, this means maintaining an up-to-date personal compliance file - the precise scope of designations, derogations obtained and their references, authorised transactions, the ownership structure of family entities and confirmations from counsel - and proactively sharing it with institutions and counterparties still willing to maintain the relationship. No written rule imposes this reversal of the burden, yet it can be decisive. Where a client provides structured evidence of what is lawful, a bank's compliance committee can build a reasoned case for maintaining the relationship. Where the client offers only protest, the committee classifies the case as a risk to eliminate. The same discipline applies to relatives who have not been designated. They need separate accounts, traceable flows of funds and strict avoidance of any transaction that could be construed as making funds or economic resources indirectly available.

Responding to de-risking. Where a bank closes the account of an undesignated person - a spouse, child, sister company or former business partner - solely because of their connection with a designated person, several avenues can be pursued in parallel. They include documented dialogue with the compliance function, supplying the legal analysis the institution lacks, and national mechanisms for securing a right to an account or basic banking services, where available. Supervisory authorities may also be approached. Several have publicly identified the effects of unwarranted de-risking, including the European Banking Authority, whose opinion of 5 January 2022 identified it as a cause of financial exclusion for legitimate customers and, in some cases, a sign of ineffective risk management. Litigation over termination of the relationship is a last resort. Timescales vary with the avenue chosen. Each is more effective when supported by the reverse compliance file described above. Attention must also be given to **private compliance databases** - screening tools used by institutions worldwide - which report both designations and mere mentions in the media. Updates must be requested and supported by evidence. Starting this work while sanctions remain in force prepares the ground for the rehabilitation addressed in step 12.

ILLUSTRATIVE CASE · DE-RISKING

When a bank closes the accounts of an *undesignated* client

Anonymised scenario drawn from de-risking practices publicly documented by supervisory authorities and compliance bodies.

Profile	A senior executive, designated under no regime, formerly worked for a group whose principal shareholder has been placed on several lists.
Situation	Two institutions close the executive's personal accounts, citing their "risk policy", despite the absence of any designation, freeze or legal obligation to terminate the relationship.
Approach	Prepare a personal compliance file with confirmation of the absence of designation under each regime, an analysis demonstrating the absence of ownership or control by the designated person, and records tracing the executive's income. Engage with the banks and, in France, apply to the Banque de France if the conditions for the right to an account are met. Request rectification by the compliance databases that mention the connection.
Lesson	De-risking is countered through **evidence rather than protest**. The bank's concern is whether the risk is documented and manageable, rather than who is right. Providing the documentation is the most effective means of influencing its decision - and the least used.

> *Common mistake*
> Treating overcompliance as an injustice to denounce rather than a risk to manage. Banks apply sanctions law alongside their own risk policies, which may lead them to decline a lawful service. **Documentation is what most readily changes a bank's position** - the precise scope of the prohibitions, copies of derogations and a clear ownership structure - presented to compliance committees rather than relationship managers.

IO

Companies and banks: manage exposure to sanctions regimes and secondary sanctions

Timing: **preventive and ongoing** · At stake: operating lawfully without overreacting - and withstanding secondary sanctions

This guide's second reader is the operator - a company, bank, fund or family office - exposed to sanctions without being their target. Its concern is how to navigate overlapping regimes without committing a violation, destroying value through excessive caution or becoming a target itself. Delisting is not the issue. This position calls for a clear internal policy in three areas.

First, direct obligations. Any operator within the scope of a regime - by reason of its nationality, place of establishment, the parties involved or the place of its operations - must freeze assets and refrain from making funds or economic resources available as required. Compliance rests on a few fundamentals. Screen counterparties against the relevant lists, analyse ownership and control throughout the chain of holdings (the 50 % rule in the United States, freezing of funds held or controlled and the prohibition on indirectly making them available in the Union - step 02), examine the actual purpose and destination of transactions, and resolve false positives so that lawful activity can continue. Reporting obligations also apply. Under the Russia regime, Article 8 of Regulation (EU) No. 269/2014 requires immediate communication of information that would facilitate its implementation. For the categories specified in paragraph 1(a), the operator has two weeks from obtaining the information to transmit it to the authority of the Member State where it resides or is located. The costliest mistakes arise in the less obvious cases: unlisted but owned entities, dollar payments cleared by a US bank that bring a transaction within US jurisdiction, and ancillary services - insurance, transport, brokering - supplied along a chain that includes a designated party.

Second, secondary sanctions. US law exposes foreign operators, even without any US nexus, to measures - foremost among them designation itself - if they provide material support to designated persons or conduct

significant transactions with particular targeted sectors or actors. In the EU legal order this threat does not constitute a legal obligation - indeed, it is viewed with hostility - but it poses a practical risk so substantial that most major operators comply. The decision goes beyond ordinary risk management. For the extraterritorial programmes of third States that it covers, the EU Blocking Statute (Regulation (EC) No. 2271/96) prohibits EU operators from complying with the measures. Yielding to the US threat may therefore breach EU law - a genuine conflict of obligations that must be analysed as such. Where appropriate, the operator may seek authorisation from the Commission under the second paragraph of Article 5 of the Regulation. The criteria are set out in Implementing Regulation (EU) 2018/1101 of 3 August 2018 and require proof that non-compliance with the foreign measures would cause serious damage. An exposed European company must therefore act with a clear understanding of its obligations. It must inform the Commission within thirty days of learning that the listed laws or actions based on them affect its economic or financial interests. For a legal person, that obligation falls on its directors, managers and other officers with management responsibilities (Article 2 of the Blocking Statute). The company must observe the Article 5 prohibition unless authorised, document its decision at governing-body level, and frame its contractual provisions - sanctions clauses, conditions precedent and orderly exit (wind-down) mechanisms - so that it can withdraw, if necessary, without abrupt termination. The interplay between these constraints and operations in crisis areas is examined in the Praxis guide to businesses in exceptional situations, to which this guide refers.

Third, managing the risk of overcompliance. An operator that routinely refuses every transaction with even a remote connection to a sanctioned country or person may believe it is protecting itself. In practice, other risks arise - contractual risk where no applicable prohibition justifies non-performance, and commercial, reputational and potentially supervisory risk where blanket refusals frustrate a humanitarian exemption that the authorities intend to operate, such as the one under resolution 2664 (2022). The written internal policy must therefore address both sides: what the institution prohibits and what it undertakes to continue doing where the activity is lawful and documented. This balance distinguishes a considered sanctions policy from automatic withdrawal.

What to gather (exposed company)

- **Exposure map**: counterparties, ownership chains, currencies, logistics routes and ancillary services
- **Written internal policy**: regimes monitored, ownership and control thresholds applied, and responsibility for borderline cases
- **Contractual provisions**: sanctions clauses, conditions precedent and orderly wind-down mechanisms
- **Decision records** of governing bodies on sensitive matters (secondary sanctions, withdrawal or continuation of relationships)
- **Freezing and notification procedures** tested before an incident occurs. For OFAC, report blockings and reportable rejections within ten business days of the event and, by 30 September, report blocked property held as at 30 June. For the Union, apply the time limit under the relevant regulation.

What not to do

- **Treating the 50 % rule as a global rule**: the US and EU approaches to ownership and control differ and must be documented separately
- **Relying exclusively on automated screening**: screening tools miss ownership chains and the true purpose of transactions
- **Withdrawing abruptly** from a relationship or market without analysing contractual obligations and applicable derogations
- **Leaving a sensitive decision to operational staff**: decisions about exposure belong with the governing bodies and must be documented

Key takeaway

An exposed operator must observe three disciplines. **Understand its direct obligations** (freezing, the prohibition on making funds or economic resources available, ownership and control). **Make an informed assessment of secondary sanctions risk** - taking account of the EU Blocking Statute, which may turn it into a conflict of obligations - and document the decision at governing-body level. **Maintain the balance** between violation and overcompliance - refusing a lawful transaction also carries a legal cost.

II

Anticipate criminal exposure for circumvention

Timing: **from day one, as a consideration in every decision** · At stake: avoiding the escalation of an administrative matter into a criminal case

For many years, sanctions violations were treated inconsistently across Europe. Directive (EU) 2024/1226 of 24 April 2024 requires Member States bound by it, which do not include Denmark, to criminalise intentional violation and circumvention of EU restrictive measures. It also requires criminalisation of certain conduct committed with serious negligence, at least where it concerns goods on the Common Military List or on the lists of dual-use items (Article 3(3)). The conduct covered includes making funds available to designated persons, failing to freeze assets, supplying prohibited services and concealing ownership or control of assets. As regards circumvention, the Directive covers, among other things, using, transferring to a third party or otherwise disposing of funds or economic resources subject to freezing in order to conceal them, providing false or misleading information to conceal the fact that a designated person is their ultimate owner or beneficiary, and a designated person's failure to comply with an obligation to report assets. A directive does not itself create a criminal offence. The transposition deadline expired on 20 May 2025, the Commission sent letters of formal notice to eighteen Member States on 24 July 2025, and several of those proceedings remained open as at 18 June 2026. The offences apply only through national law, whether implementing legislation or pre-existing law. Its existence and content must be verified in each relevant jurisdiction as at the date of the conduct (in France, the Customs Code, recodified with effect from 1 May 2026, already penalises breaches of restrictions on foreign economic and financial relations). The Directive provides for the liability of legal persons and requires penalties that are effective, proportionate and dissuasive. As transposition progresses, this harmonisation, combined with longstanding US enforcement practice involving serious prosecutions for breaches of OFAC programmes and the growing role of specialist prosecutors, changes the nature of the risk. Every decision concerning assets or commercial activity under a sanctions regime must now also be assessed as conduct that could give rise to criminal liability.

For the designated person, the consequence is the one identified in step 03. Post-designation movements of assets - disposals to relatives, changes in beneficial ownership, the interposition of companies and the use of nominees - provide the evidence on which circumvention investigations are built. A genuine and documented disposal at market value, supported by a reasoned justification, may be lawful and even necessary, provided that the competent authority has authorised it where the applicable regime so requires (step 02). Without that authorisation, disposing of frozen assets itself breaches the freeze, whatever their value. An

opaque and hurried disposal may also expose the person to prosecution for circumvention if the elements of the offence are established. The distinction turns more on evidence than on concepts. It is drawn at the time of the transaction, before any investigation: prior written legal analysis, independent valuation and transparency with the competent authorities where the regime requires or permits it. The defence itself also needs protection. Fees are paid under a derogation (step 08), and counsel must ensure that their own work remains within the scope of lawful services.

For companies and banks, criminal risk arises in three recurring scenarios. The first is a transaction structured to conceal the true counterparty - rewritten commercial records, chains of intermediaries, or disguised vessels or cargoes. The second is continuation of a business relationship through arrangements intended to neutralise the effect of a designation. The third is a systemic compliance failure that allows violations which the organisation should have detected to persist. Once an investigation begins - a search, a request for information or a judicial freeze - the case requires a different set of skills: preserving data, managing questions of privilege, coordinating the defences of the entity and its officers, and deciding whether and how to cooperate. These issues are addressed in the Praxis guide to transnational investigations and inquiries, to which the reader is referred. The point here is one of anticipation. A company encountering criminal sanctions law for the first time during a search has already lost the opening rounds.

> *Spotlight*
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> Directive (EU) 2024/1226 requires the Member States bound by it to criminalise the violations and forms of circumvention it defines. For legal persons, it requires liability under the conditions set out in Article 6 and permits criminal or non-criminal penalties. The applicable national law must be verified in each jurisdiction as at the date of the conduct. **Every movement of assets under a sanctions regime must be planned on the assumption that a prosecutor may scrutinise it years later**: prior written analysis, independent valuation and traceability - or refrain from acting.

12

Leave the regime and rebuild

Timing: prepared from day one and implemented over several years · At stake: giving delisting economic as well as legal effect

Delisting is the penultimate stage of the case. Experience of sanctions litigation across jurisdictions shows that the effects of a designation survive its removal. Private compliance databases retain the history, search engines return designation announcements more readily than delisting decisions, banks remember the risk, and some States retain their own measures after others have lifted theirs. Exiting a regime therefore requires a project of its own, with three areas of work.

Legal work: consolidate delisting. First establish the precise scope of relief. Verify effective delisting under each regime - EU delisting says nothing about the SDN List, and vice versa - obtain the instruments and written confirmations, secure the lifting of national implementing measures and obtain release of the assets from each account provider by supplying evidence that the freeze has been lifted. Address derivative measures as well: entries in national registers, customs alerts and visa refusals based on the former designation. Then monitor the risk of relisting, a real possibility where delisting follows judicial annulment for an inadequate statement of reasons (step 06). Monitoring the authority's acts and retaining the full record of the first proceedings offer the best protection against a second listing.

Banking and reputation: restore access. Restoring banking access applies the method in step 09 in reverse. Present evidence - delisting instruments, a timeline and an up-to-date compliance analysis - to institutions' compliance committees. Send compliance databases requests for updates supported by the decisions. Address online content through the available avenues - rights of reply, update requests and indexing of favourable decisions. Any public communication should be coordinated with proceedings still pending and should avoid triumphalism. A measured account of the facts stands the test of time better than an attempt to settle scores. For companies, recovery also requires work with counterparties: comfort letters, confirmations from counsel, and updates to tender files and compliance questionnaires.

Preserving the record: put the case file to use. A person or company that has lived through a sanctions regime holds a rare asset: a complete record - timelines, supporting documents, decisions and correspondence - proving what actually happened. The file must be archived securely and in a usable form. It will be needed in residual proceedings, banking negotiations and due diligence by prospective partners, and may be called upon if a new listing or a belated investigation reopens the matter. The principle applies to both readers of

this guide. Preparation for leaving a regime begins on day one, and everything documented while sanctions are in force can later be used to rebuild.

Key takeaway

Formal delisting does not itself bring about economic rehabilitation. **Three steps give it practical effect**: consolidate delisting under each regime and clear derivative measures, restore banking access and reputation through documented evidence, and archive the complete file against the risk of relisting. Anyone who has failed to document the period under sanctions emerges without evidence of their own experience.

ELEVEN MISTAKES TO AVOID

Mistakes that *compromise the defence*

Publicly reported sanctions litigation and the practice of implementing authorities reveal recurring mistakes that can cost years in proceedings or turn an administrative matter into a criminal case. The list identifies those specific risks rather than offering an abstract warning.

01 Treating "sanctions" as a single body of measures. Each regime - UN, European Union, OFAC, OFSI, Switzerland and national mechanisms - has its own legal bases, grounds, effects and remedies. A strategy copied from one regime to another fails under both.

02 Letting the EU time limit run while awaiting the outcome of other steps. The time limit - two months plus ten days from individual notification of the act or, where that is impossible, from the end of the fourteenth day following publication of the notice in the Official Journal - is mandatory. A request for review does not suspend it. A subsequent act maintaining the listing may be challenged in its own right, but does not reopen the time limit for challenging the initial listing. Meanwhile, the designation becomes entrenched.

03 Moving assets after designation without prior written legal analysis. Disposals to relatives, changes in beneficial ownership and the interposition of companies provide the evidential basis for circumvention prosecutions. Directive (EU) 2024/1226 requires Member States to criminalise circumvention.

04 Neglecting administrative review on the assumption that it is purely political. Observations to the Council provide an opportunity to request disclosure, build the record for litigation and sometimes obtain delisting without court proceedings.

05 Expressing indignation where the court expects a methodical case. Before the General Court, successful pleas concern the statement of reasons, the sufficiency of the factual basis and the rights of the defence - a general denunciation of the sanctions regime carries little weight.

06 Taking inconsistent factual positions before different authorities. The Council, the General Court, OFAC, OFSI and national courts read one another's decisions. A contradiction identified in one forum undermines credibility in all of them.

07 Meeting living expenses outside the derogation system instead of applying for relief. Informal means of subsistence expose the designated person and their relatives to criminal liability, even though derogations for basic and legal expenses exist precisely to meet those needs.

08 Overlooking the banking implications of authorisations. A derogation that no institution is willing to act on is a victory on paper. Involve the bank that will process the transaction at an early stage, without delaying an urgent application.

09 Underestimating the extension of a freeze to owned or controlled entities. In the United States, the 50 % rule reaches companies that appear on no list. In the Union, the freeze on funds held or controlled and the prohibition on making funds available indirectly have a similar reach - cosmetic restructuring makes the position worse, while a disposal of frozen shares breaches the freeze if it takes place without the authorisation required under the applicable regime. Divestment entirely outside US jurisdiction is subject to the separate conditions described in step 02.

10 Responding to de-risking with protest instead of documentation. Banks assess the risk the evidence discloses. Determining what is just is not their function. The reverse compliance file is the most useful means of intervention and supports the other avenues (the right to an account, supervisory authorities and litigation), each of which has its own conditions.

11 Treating delisting as the end of the case. Unless delisting is consolidated under each regime, compliance databases are updated and the risk of relisting is monitored, the effects of designation can persist for years after its legal removal.

What to expect from an initial discussion with Hennebel Avocats

The initial discussion with the firm is confidential. The only commitment at this stage is to assess the situation. It typically lasts between forty-five and ninety minutes and takes place by secure telephone, encrypted video call or in person, depending on availability and the location of the matter. Signal and Threema are available. WhatsApp is used solely for logistical coordination and never for the substance of the case file. Secure upload is available for sensitive documents.

The discussion covers three areas. The first is a precise account of the regimes involved (current designations, legal bases, published grounds and time limits already running). The second is their practical impact (frozen accounts, suspended transactions, counterparties that have withdrawn and entities affected through ownership or control). The third is the preliminary strategy (EU review and litigation, an OFAC petition, UK review, Swiss remedies, derogations, banking issues and criminal exposure). Following the initial discussion, the firm may, where justified, provide a written assessment setting out the options, their recommended sequence and the scope of a possible engagement.

Legal professional privilege covers the initial discussion irrespective of what follows.

Urgent situations - a newly published designation, a bank block already in effect, a suspended transaction, a search or an authority's request for information - receive priority (Crisis Room · Praesidium), with coordination of the legal, banking and communications aspects.

ANNEX - TABLE OF AUTHORITIES CITED

Instruments and decisions cited in this guide

Authorities cited throughout the twelve steps, with their subject matter and practical implications for sanctions litigation and compliance.

REFERENCE	SUBJECT	PRACTICAL TAKEAWAY
UN Charter, Arts 41 and 103	Measures not involving the use of armed force decided by the Security Council. Precedence of obligations under the Charter (Art. 103)	Basis of UN sanctions regimes. The duty of Member States to implement them gives rise to tension with human rights safeguards.
Res. 1267 / 1989 / 2253	Sanctions regime targeting Al-Qaida and Islamic State	The most developed UN regime and the only one with an enhanced mechanism for individual review.
Res. 1904 (2009), 1989 (2011) and 2734 (2024)	Establishment of the Office of the Ombudsperson under the 1267 regime. The mechanism introduced by resolution 1989 (2011) is retained in resolution 2734 (2024), which extends the Office's mandate until 17 June 2027. On a recommendation for delisting by the Ombudsperson, the measures are lifted sixty days after the committee completes its consideration of the comprehensive report, unless the committee decides otherwise by consensus or the matter is referred to the Security Council	Independent examination of delisting requests, followed by a report and recommendation to the committee - a substantial improvement in the petitioners' position, without conferring judicial authority on the Ombudsperson.

Res. 1730 (2006) and 2744 (2024)	Focal Point for Delisting (regimes other than the 1267 regime)	Procedure applicable to requests filed since 19 July 2024, including those refiled after withdrawal of an earlier pending request. Information is gathered from States over four months, subject to extension. A two-month consultation follows, renewable once for two months, with an opportunity for dialogue. The confidential comprehensive report contains no recommendation. The committee decides under its ordinary procedures if a member or a State concerned so requests. Otherwise, the request is deemed rejected after two months.

Res. 2664 (2022), 2761 (2024), 1452 (2002) and 1735 (2006)	Cross-cutting humanitarian exemption from UN asset freezes (2664, 2761). Individual derogations for basic and extraordinary expenses under the 1267 regime (1452, as amended by 1735)	Provides legal certainty for humanitarian flows involving eligible actors. A new compliance consideration for banks and operators - excessive caution deprives the exemption of practical effect. Its application to the Al-Qaida/IS regime, originally limited to two years, was maintained indefinitely by resolution 2761 (2024) of 6 December 2024. Its scope and implementation in EU and national regimes must be checked as at the date of the transaction. Separately from this cross-cutting exemption, resolution 1452 (2002), as amended by resolution 1735 (2006), governs individual derogations under the 1267 regime. Basic expenses may be authorised after notification to the committee unless it takes a negative decision within three working days. Extraordinary expenses require its approval (step 08).
Art. 29 TEU	Council decisions under the common foreign and security policy	First stage of EU restrictive measures. Sets the designation criteria and identifies the persons targeted in the annexes.

Arts 215 and 263 TFEU. Reg. (EU) No. 269/2014 (Arts 1, 7 and 9, the latter as amended by Reg. (EU) 2022/1273)	Council regulations implementing economic and financial measures	Second stage, directly applicable in the Member States and central to judicial challenge. An action for annulment must be brought within two months (sixth paragraph of Art. 263 TFEU), extended by ten days on account of distance, from individual notification of the act or, if direct notification is impossible, from the end of the fourteenth day following publication of the notice in the Official Journal. Under the Russia regime, the Regulation defines the funds and economic resources subject to freezing (Art. 1), provides for credits to frozen accounts, with the sums received remaining frozen (Art. 7), and requires the designated person to report assets within six weeks of listing (Art. 9). Annulment of a regulation by the General Court takes effect only when the time for appealing expires or an appeal is dismissed (second paragraph of Art. 60 of the Statute of the Court of Justice). The effects of the CFSP decision are generally maintained for the same period (second paragraph of Art. 264 TFEU).
ECJ, 3 September 2008, Kadi and Al Barakaat International Foundation v. Council and Commission (C-402/05 P and C-415/05 P)	Kadi I	Effective judicial review of EU acts implementing UN sanctions in the light of the fundamental rights protected by the EU legal order.

CJEU (Grand Chamber), 18 July 2013, Commission and Others v. Kadi (C-584/10 P, C-593/10 P and C-595/10 P)	Kadi II	Practical scope of review: verification of the factual basis. Annulment is required if no ground is at once specific, concrete and substantiated. The authority bears the burden of substantiation.
CJEU (Grand Chamber), 28 March 2017	Rosneft (C-72/15)	Jurisdiction to give preliminary rulings on the validity of restrictive measures. A second avenue of challenge is available through domestic litigation, but under TWD Textilwerke Deggendorf (ECJ, 9 March 1994, C-188/92) it is closed to anyone who undoubtedly had standing to bring an action for annulment and allowed the time limit to expire.
EU General Court, 29 January 2013, Bank Mellat v. Council (T-496/10), appeal dismissed (CJEU, 18 February 2016, C-176/13 P)	Annulment of the measures against Bank Mellat	Illustrates how judicial review operates. The court sets aside designations that the authority cannot substantiate before it.
ECtHR (GC), 12 September 2012, No. 10593/08	Nada v. Switzerland	A State implementing a UN regime retains latitude as to the means of implementation and must exercise it consistently with the Convention. Violation of Article 8 and of Article 13 taken in conjunction with Article 8.

ECtHR (GC), 21 June 2016, No. 5809/08	Al-Dulimi and Montana Management Inc. v. Switzerland	The resolution, interpreted in harmony with the Convention, did not exclude all judicial scrutiny. Before giving effect to the listing, the national court must be able to verify that it is free from arbitrariness. Violation of Article 6 § 1, without recourse to the equivalent protection test.
IEEPA 1977	International Emergency Economic Powers Act	Statutory basis for US economic sanctions programmes implemented by executive orders and administered by OFAC.
Reg. (EC) No. 2271/96 of 22 November 1996. Implementing Reg. (EU) 2018/1101 of 3 August 2018	EU Blocking Statute	Prohibits compliance with the extraterritorial laws of third States listed in the Regulation. Commission authorisation (second paragraph of Art. 5) is available where non-compliance would cause serious damage - the conflict of obligations examined in step 10.
OFAC, guidance of 13 August 2014 and guidance of 31 March 2026 (sham transactions). Council of the EU, Best Practices (3 July 2024). CJEU, 12 March 2026, EM System (C-84/24)	50 % rule on ownership of entities. EU criteria for ownership and control	Entities owned 50% or more, directly or indirectly, by blocked persons, including in the aggregate, are blocked - even if unlisted. Ownership triggers the US rule. Control alone does not, but a sham disposal leaves the blocked interest in place (OFAC guidance of 31 March 2026). In the Union, the test is ownership of 50% or more or control, with a rebuttable presumption of control at 50% extending the freeze to the entity's funds (EM System, concerning the Belarus regime under Regulation (EC) No. 765/2006).

OFAC, 31 CFR 501.807. FAQ 402. Announcement of 29 June 2026 (Reconsideration Portal)	Reconsideration and delisting procedure. Divestment by blocked persons	OFAC has no fixed deadline but must decide within a reasonable time (5 U.S.C. § 555). Filing petitions through the portal has been strongly encouraged since 29 June 2026. Divestment must take place entirely outside US jurisdiction and without US persons. Property already blocked remains blocked, and unauthorised transfers are not recognised.
SAMLA 2018	Sanctions and Anti-Money Laundering Act (United Kingdom)	Framework for the United Kingdom's autonomous regimes. Ministerial review of designations (section 23, with any further request conditional on a significant matter not previously considered), followed by judicial review (section 38). Under the Supreme Court's judgment in Shvidler ([2025] UKSC 30, 29 July 2025), the court accords the government a wide margin of discretion. OFSI administers the financial aspects.
FCDO, UK Sanctions List. Guidance, Moving to a single list for UK sanctions designations (28 January 2026)	UK list of designations, published by the Foreign, Commonwealth and Development Office	Sole source of UK designations since 28 January 2026. The OFSI consolidated list is no longer updated.

Dir. (EU) 2024/1226 of 24 April 2024	Definition of criminal offences involving violation of restrictive measures	For States bound by the Directive, the intentional violations listed in Article 3 include failure by a designated natural person or the representative of a designated entity or body to meet a reporting obligation. The serious negligence provision in paragraph 3 covers the transactions in paragraph 1(e), at least in relation to items on the Common Military List of the European Union or dual-use items listed in Annexes I and IV to Regulation (EU) 2021/821. Article 6 governs the liability of legal persons. Transposition was due by 20 May 2025, and its status must be checked in each State as at the date of the conduct - a shift from administrative to criminal exposure.
Dir. (EU) 2024/1260	Asset recovery and confiscation	Scope includes Directive 2024/1226 (Art. 2(1)(p)). Transposition deadline set for 23 November 2026. Addresses the relationship between freezing, criminalised circumvention and confiscation.
Monetary and Financial Code (France), Arts L. 562-1 et seq.	National asset freeze mechanism under the Monetary and Financial Code	Renewable six-month national order. Proceedings before the administrative courts must in principle be brought within two months of valid notification, subject to extensions on account of distance and interruption of the time limit by a request for reconsideration to the issuing authority. Derogations in France are handled by the Directorate General of the Treasury.

EmbA 2002 (Switzerland)	Federal Act on the Implementation of International Sanctions (Embargo Act)	Empowers the Federal Council to enact coercive measures. Although outside the Union, Switzerland generally adopts EU regimes through its own ordinances while retaining sovereign discretion - an autonomous regime with a role beyond implementation of EU measures.
SECO (Switzerland)	State Secretariat for Economic Affairs	Administrative authority responsible for implementation, including lists, authorisations and derogations. Delisting requests may fall to the supervising department (EAER under the Ukraine regime). Decisions may be appealed to the Federal Administrative Court and then, subject to the conditions in Article 83(a) of the Federal Supreme Court Act, to the Federal Supreme Court.
Federal Administrative Court, 18 March 2025, B-4084/2023 (Rashnikov). Federal Supreme Court, 13 May 2026, 2C_212/2025	Challenge to a refusal to delist under Switzerland's Ukraine regime	Decision taken by the EAER at first instance. The appeal was dismissed by the Federal Administrative Court and then by the Federal Supreme Court. The latter held that an appeal in public law matters was available because coercive measures under the Embargo Act affect civil rights, bringing them within the qualification to the exclusion in Article 83(a) of the Federal Supreme Court Act. The time limit for appeal is thirty days at each level.

EBA, opinion of 5 January 2022 (EBA/Op/2022/01)	Unwarranted de-risking	A cause of financial exclusion for legitimate customers and sometimes a sign of ineffective risk management. Supports approaches to supervisory authorities (step 09).

Main sources

This guide draws on the instruments and decisions in the table of authorities above, together with the following public materials referred to in general terms: Security Council resolutions and the published practice of the sanctions committees and the Office of the Ombudsperson, European Union decisions and regulations establishing restrictive measures regimes, their statements of reasons and the settled case-law of the General Court on the duty to state reasons and the need for a sufficient factual basis, public guidance from OFAC (lists, licensing and the reconsideration procedure) and OFSI, the Swiss Embargo Act and the Federal Council ordinances implemented by the State Secretariat for Economic Affairs, and publications by supervisory authorities on de-risking and the implementation of humanitarian exemptions. The guide states the law as at 21 November 2026. Legislative and institutional developments in progress, including the transposition of Directive (EU) 2024/1226, are identified and dated throughout the text. The Praxis series does not use footnotes. The analyses in the Pacta series develop the issues examined in this guide and provide full references.

Verification. The law is stated as at 21 November 2026. References were checked on that date against the instruments and decisions cited.

Keywords

international sanctions · asset freeze · designation · EU restrictive measures · SDN List · OFAC · 50 % rule · OFSI · SECO · Switzerland · Embargo Act · sanctions committee · UN Ombudsperson (Ombudsperson) · humanitarian exemption · EU General Court · Kadi judgment · factual basis · rights of the defence · delisting · ownership and control · secondary sanctions · bank de-risking · overcompliance · sanctions circumvention

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