

Russia sanctions under the spotlight

Hirra Tung & Lucia Bonetto compare sanctions regimes in the UK, EU & US, setting out advice, challenges & recent caselaw



There are some exceptions to this in reg 60DB: for example, legal advisory services provided in relation to the discharge of or compliance with UK statutory or regulatory obligations is permitted. However, the regulations prohibit a person from dealing with funds owned, held or controlled by a designated person (reg 11), which impacts the payment of legal fees. Schedule 5 of the regulations permits the granting of a licence for 'reasonable professional fees for the provision of legal services, or... reasonable expenses associated with the provision of legal services'. *PJSC National Bank Trust and another company v Mints and others* [2023] EWHC 118 (Comm) confirmed that designated individuals and entities have the right of access to English courts and that it is 'common ground that [Sch 5] permits OFSI to issue a licence to a designated person to enable it to pay its own lawyers to represent it in litigation'.

Consequently, OFSI has issued a general licence permitting lawyers and barristers to receive payments from designated individuals without the need for obtaining a specific licence. The most recent licence (Legal Services General Licence INT/2026/9512597 (the licence) became effective on 29 April 2026, and is valid for six months. The licence covers the provision of legal services commenced before and after a person was designated and also contains a combined fee cap of £4m on the professional legal fees and a cap on the expenses (being 10% of the legal fees or £400,000, whichever is lower), as well as reporting and record-keeping obligations on any person who uses the licence. In 2025, OFSI also issued an Arbitration Costs General Licence INT/2025/5787748 (the arbitration licence) to address gaps not covered by the licence. The arbitration licence allows payments to be made to arbitration associations and arbitrators to cover fees and expenses for their arbitration services. The arbitration licence was updated on 16 July 2026 to include additional reporting requirements.

With regards to challenging designation, UK caselaw indicates there is a very high threshold for claimants. In *Shvidler v Secretary of State for Foreign, Commonwealth and Development Affairs; Dalston Projects Ltd and others v Secretary of State for Transport* [2025] UKSC 30, the Supreme Court examined the proportionality and lawfulness of sanctions imposed under the regulations and allegations of breaches of the Human Rights Act 1998 and Art 1 of protocol 1 of the European Convention on Human Rights. The court confirmed that in relation to the proportionality assessment, the correct test was as set out in *Bank Mellat v Her*

IN BRIEF

- Examines the sanctions regimes adopted by the UK, EU and US against Russia, focusing on their impact on the provision of legal services and the ability of designated persons to challenge sanctions.
- Compares the differing approaches to restrictions on legal advisory services, licensing frameworks/carve-outs and access to justice.
- Analyses recent caselaw on designation and judicial review across the three jurisdictions.

The sanctions adopted by the UK, EU and the US have evolved into one of the most extensive and comprehensive sanctions regimes. Designed to increase economic and political pressure on Russia, these jurisdictions have introduced successive rounds of restrictive measures targeting a broad range of sectors while also imposing asset freezes and travel bans on individuals and entities.

Among these restrictions, the prohibition on providing legal advisory services to Russian entities stands out for its significant implications for the legal profession. The following is a concise overview of the UK, EU, and US sanctions regimes against Russia through the lens of legal services and designation, comparing the approaches adopted by each jurisdiction

and highlighting the challenges for legal professionals as well as claimants seeking to challenge their designation.

UK regime

The UK's post-Brexit sanctions regime is primarily governed by the Sanctions and Anti-Money Laundering Act 2018 (SAML 2018), which empowers the government to impose various sanctions, such as asset freezes, prohibitions on making funds or economic resources available to designated persons, and restrictions on financial services, trade, transport and immigration, through secondary legislation, such as the Russia (Sanctions) (EU Exit) Regulations 2019 (SI 2019/855). Financial sanctions are primarily implemented and enforced by the Office of Financial Sanctions Implementation (OFSI), and breaches may give rise to both civil penalties and criminal liability.

With regards to the provision of legal services to sanctioned or designated individuals, pursuant to reg 54D, UK persons (regardless of where they are located) are prohibited from providing legal advisory services to a non-UK person where the object or effect of those services would help that person engage in activities that are prohibited due to the sanctions.

Majesty's Treasury [2013] UKSC 39 (does the measure pursue a legitimate objective; is it rationally connected to the objective; could the objective have been achieved by a less intrusive measure and has a fair balance been struck?). When applying sanctions, it was not necessary for the government to demonstrate the particular measure directed at a single individual would achieve the desired effect of the UK sanctions regime against Russia, but rather that it contributed to the 'cumulative effect' of all measures imposed under the sanctions regime aimed at exerting pressure on Russia.

The UK's approach to 'associated with' for designation purposes is also broad, with a person being treated as 'associated with' a designated individual by virtue of being an 'immediate family member'. In *R (on the application of Ismailov) v Secretary of State for Foreign, Commonwealth and Development Affairs* [2026] EWHC 1188 (Admin), Ismailov was designated under the regulations on the basis he was an 'immediate family member' (nephew) of Alisher Usmanov, who was a sanctioned individual. The regulations had been amended shortly before Ismailov's designation to include nephew as an 'immediate family member'. In rejecting Ismailov's challenge to his designation, the court stated that the fact the 'trigger' for his designation was family association rather than individual conduct did not render the regulations obscure or unforeseeable. Given the 'clear and unambiguous terms of the statutory scheme', which permitted designation solely on the grounds of association, there had been no breach of the principle of legality. The fact the UK sanctions regime did not conform with or mirror the EU sanctions regime (following the amendment) did not make the amendment *ultra vires*. The UK sanctions regime created a freestanding domestic regime. The court rejected arguments of irrationality and arbitrariness reiterating that the secretary of state had been afforded a 'wide margin of appreciation' and there were many legitimate reasons why some family members may be designated and others are not.

There have also been a number of other significant Russia-related sanctions decisions from the UK courts. In *UniCredit Bank GmbH, London Branch v Constitution Aircraft Leasing (Ireland) 3 Ltd and another* [2026] UKSC 10, the Supreme Court determined that payment by UniCredit under letters of credit issued in relation to leases of aircraft to Russian airlines was prohibited under reg 28(3)(c) (unless a licence was obtained authorising payment). Regulation 28(3) was interpreted broadly so

it applied to payments factually connected with a relevant 'arrangement', even where there was no causal connection to the prohibited supply. The Supreme Court also confirmed that s 44, SAMLA 2018 provides broad protection for parties who withhold payment where they reasonably believe it is necessary to comply with UK sanctions.

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In *Tonzip Maritime (Singapore) PTE Ltd v 2 Rivers PTE Ltd* [2026] EWCA Civ 641, the Court of Appeal determined that where a contract clause permits the owner of a vessel to refuse an order, which in their 'reasonable judgment' is 'prohibited by sanctions or will expose' the owners, the vessel or its crew to sanctions, then the owner does not need to prove 'on the balance of probabilities' that sanctions would be breached; the clause was only concerned with a reasonable judgment as to a 'real risk' of breach of sanctions.

European Union

Since March 2014, the EU has progressively introduced unprecedented sanctions against Russia, which include economic sanctions, individual sanctions, diplomatic measures and visa measures. In parallel, the EU has adopted sanctions against Belarus, Iran and North Korea in response to their support of Russia. One of the recent developments in the field is the jurisprudence on the application of EU asset-freezing measures to trusts. In the joined cases *FZ AR SpA and SX Ltd v Ministero dell'Economia e delle Finanze and Others* (C-428/24 and C-476/24) and *T Trust* (Case C-483/23), the Court of Justice of the European Union ruled that funds and economic resources held through a trust may be frozen where they are linked to a designated person through a trust structure.

In this context, the EU has imposed the prohibition to provide, directly or indirectly, certain consulting services and other services to the Russian government, and/or legal persons, entities and bodies established in Russia. The ban includes the provision of certain legal advisory services in non-contentious matters.

The ban contains certain exceptions,

which are designed to preserve access to justice and the right of defence. Hence, the prohibition does not apply, *inter alia*, to the provision of: (i) services that are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy; and (ii) services that are necessary to ensure access to judicial, administrative or arbitral proceedings in a member state, or for the recognition or enforcement of a judgment or an arbitration award rendered in a member state. Furthermore, as explained by Recital 19 of Council Regulation (EU) 2022/1904, the prohibition of legal services does not apply to representation, advice, preparation of documents or verification of documents in the context of legal representation services. Finally, the FAQs, issued by the European Commission on 22 January 2026, clarify that pro bono advisory services are not exempted as such, unless they fall outside the scope of the prohibition or fall within the scope of application of the two exemptions mentioned above.

Moving now to designation, the European jurisprudence shows it is possible to challenge designation decisions (and succeed). A recent example from 2024 are the cases of *Mikhail Fridman v Council* (Case T-304/22) and *Petr Aven v Council* (Case T-301/22), who persuaded the General Court to overturn their designation by the EU Council. In particular, the General Court held that, although the applicants had a degree of proximity with Russia, this was not sufficient as an objective link is necessary. The court also held the EU Council had failed to demonstrate sufficient evidence the applicants provided support to the Russian state or were involved in actions which undermined Ukraine's national security, independence or sovereignty. Accordingly, the General Court concluded there was no basis for including them in the EU Sanctions List in February 2022 or extending such restriction until March 2023. Following the judgments, the council re-listed the applicants under new rules. The Republic of Latvia appealed the General Court's decision. In October 2025, the Advocate General issued a non-binding opinion recommending the court reject Latvia's appeal. A final binding decision from the upper chamber is pending.

United States

In the US, sanctions against Russia are authorised under the International Emergency Economic Powers Act (IEEPA) and implemented through several Executive Orders and the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR Part 587 (RuHSR). The US Department of Treasury's Office of Foreign Assets Control

(OFAC) is responsible for administering and enforcing economic sanctions against individuals and entities. Unlike the EU, the US has not adopted a broad ban on legal advisory services to Russian clients. Instead, legal services are analysed under OFAC's licensing framework and the specific sanctions applicable to the client or transaction.

With regards to the procedure and steps required to obtain a licence, the OFAC website provides that any person or entity seeking to engage in an otherwise prohibited activity shall submit an application for a license to OFAC. The application shall contain all necessary information as required in the application guidelines or the regulations pertaining to the particular sanctions programme; this includes the names of all parties who are concerned with or interested in the proposed transaction. Law firms, counsel and arbitrators typically seek a specific licence from OFAC before: (1) serving as arbitrators if arbitration participants are blocked parties; (2) participating in an arbitration where the arbitral seat is in a sanctioned country; or (3) representing a blocked party in an arbitration outside the US.

Significant discrepancies exist between the US's Specially Designated Nationals (SDN) list and the EU and UK lists of asset-freeze targets. In the US, if a person or entity is designated an SDN, their property is blocked as a matter of US law, and any US person is prohibited from dealing with property belonging to such persons absent an exception or OFAC licence.

Judicial review of OFAC designations in US courts is formally conducted under the Administrative Procedure Act (APA) but is marked by substantial deference to the executive in matters of foreign policy and national security. US courts generally assess whether OFAC's determinations are arbitrary,

capricious, or contrary to law, while routinely accepting reliance on classified intelligence material. As a result, challenges to sanctions designations are rarely successful, particularly in cases involving Russia-related national security determinations, where courts emphasise the breadth of executive discretion under IEEPA and related executive orders. In this context, a recent case challenging OFAC's designation is *LC et al v Trump et al* (2026), which arose after the US government imposed sanctions on UN Special Rapporteur Francesca Albanese under the Executive Order 14203 pursuant to IEEPA. The court determined that her designation was unconstitutional as it targeted the contents of her free speech, noting she had no role at the International Criminal Court (ICC) and did not speak or act on behalf of them nor were any recommendations she made binding on the ICC—she was merely expressing her opinion. However, since the preliminary injunction was granted, the Trump administration appealed the judge's order and obtained an administrative stay of the judge's ruling, thereby allowing the US to reinstate Albanese to the SDN List. At present the sanctions against her remain in place while her legal challenge continues.

In *Deripaska v US Department of the Treasury* (2021), US courts upheld the designation of Russian businessman Oleg Deripaska, finding that OFAC's evidentiary memorandum, which included classified and unclassified evidence, was sufficient to support conclusions that he acted for or on behalf of senior Russian officials and operated in the energy sector of the Russian economy. The courts emphasised that it must presume OFAC prepared the evidentiary memorandum in 'good faith' and rejected arguments based on due process and evidential insufficiency. The court also acknowledged the broad nature

of the authorisation to block property under the IEEPA. The US Court of Appeal also affirmed the District Court's judgment when rejecting Deripaska's appeal in March 2022.

By contrast, the most recent limitation on OFAC's authority arose outside the Russia sanctions context in *Van Loon v Department of the Treasury* (5th Cir 2024), where the court held OFAC had 'overstepped its congressionally defined authority' under IEEPA in sanctioning immutable smart contracts associated with a blockchain protocol, which were not capable of being owned or controlled and therefore did not constitute 'property' under IEEPA. While this case highlights there are some limits to OFAC's deference, it was in the context of statutory interpretation as opposed to a finding that OFAC's designation was arbitrary or capricious. The court also stated that perhaps Congress will update the IEEPA to target modern technologies such as crypto-mixing software in the future. In March 2025, the Treasury Department exercised their discretion and removed Tornado Cash from the SDN list.

Objectives aligned

The UK, EU and US sanctions regimes against Russia are aligned in their overarching objective of exerting sustained economic and political pressure. However, while each jurisdiction provides mechanisms that enable legal representation of designated persons in certain circumstances, the scope of the restrictions, licensing frameworks/carve-outs and available exemptions vary. Recent case law also illustrates different approaches to judicial review of designation decisions.

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