



U.S. Sanctions the International Criminal Court

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The personal and financial sanctions imposed by the U.S. on 6 February on the International Criminal Court (ICC) will seriously hamper its activities. They will impact not only investigations into crimes committed in Palestine and Afghanistan, which the U.S. specifically opposes, but also proceedings involving African countries, Belarus, and Ukraine. In view of the impact of the sanctions and the U.S. authorities' expectation that allies support their approach to the ICC, they will be a source of tension in transatlantic relations.

Main Objectives. The sanctions are intended to paralyse the ICC's actions against the United States and Israel, the only country explicitly mentioned in President Donald Trump's executive order and described as a close ally. The aim is to obstruct [investigations into crimes in Afghanistan and Palestine](#) and, in particular, block the execution of [arrest warrants issued in late 2024 against Israeli Prime Minister Benjamin Netanyahu and former Defence Minister Yoav Galant](#). The U.S. claims that the court is unlawfully extending jurisdiction to both countries, even though they are not parties to the ICC Rome Statute, and that the court's actions are a threat to their national security and foreign policy.

The restrictions are intended to shield current or former members of the armed forces and officials from the U.S., NATO countries, and major U.S. non-NATO allies (currently 20, including Israel, Japan, and South Korea) from prosecution by the ICC, as long as their country is not a member of the ICC. Actions by the court against these individuals, referred to as protected persons, can result in financial (freezing assets in the U.S.) and individual sanctions. The financial sanctions may cover individuals and entities (state institutions, intergovernmental and non-governmental organisations, companies) involved in the investigation, arrest, or prosecution by the ICC of a protected person and in supporting such activities, for example, financially or by providing goods and services. Trump's executive order introduces also so-called secondary sanctions, restrictions on persons who provide sanctioned persons or entities with funds, goods, or services or receive these from them. This is broader and more hostile towards

the ICC than in the [sanctions package adopted in 2020 by the previous Trump administration](#) and revoked by President Joe Biden. The individual sanctions, in turn, include a ban on entry to the U.S. of persons involved in ICC actions or supporting it, ICC personnel designated by the U.S. Secretary of State, and the spouses and children of individuals from these groups.

The sanctions are not automatic—their imposition and inclusion on the list of sanctioned entities is made by the Secretary of State in consultation with the Secretary of the Treasury and the Attorney General. For the time being, only [ICC Prosecutor Karim Khan](#) has been subject to them, but one can expect them to be extended.

External Response. Trump expressed the expectation that allies support his actions against the ICC and oppose any steps against U.S. and Israeli citizens. However, only Israel clearly welcomed them. The UN and the EU have called on Trump to reverse the decision, stating that it damages the independence of the ICC and undermines global justice. On the day the sanctions were introduced, ICC representatives met with the President of the European Council António Costa, EU High Representative for Foreign Affairs and Security Policy Kaja Kallas, and Weronika Frydrysek, representing the Polish presidency of the Council, who declared the Union's full support. The ICC itself condemned the sanctions and called on its 125 members to support the court. In response, 79 of them, including Brazil, Colombia, France, Germany, the Netherlands, Nigeria, Poland, South Africa, Spain) collectively expressed their support for the

independence of the ICC and their willingness to support its continued activities.

Of the EU countries, Czechia, Hungary, and Italy did not join the statement. By doing so, they probably wanted to curry favour with President Trump, but Czechia's and Hungary's decision was also influenced by their [clearly pro-Israel political line](#). Hungary, moreover, has had an ambivalent attitude towards the court for years, and as early as 2023 declared that it would not execute [an arrest warrant against Vladimir Putin](#) if he came to Hungary. After the announcement of U.S. sanctions, Prime Minister Viktor Orbán expressed his opinion that Hungary would have to reconsider its membership of the ICC. Italy's decision, in turn, may have been influenced by tensions in its relations with the ICC over its refusal in January to honour an arrest warrant for the head of Tripoli prisons, Libyan Osama Almasri, suspected of war crimes and other violations (Italy deported him to Libya despite the warrant, presumably for the sake of good relations with the Tripoli government). Among ICC members, key U.S. allies in Asia and Oceania (Australia, Japan, New Zealand, South Korea), some Latin American countries (e.g., Argentina) and African countries (e.g., Tanzania) also failed to support the ICC. Also noticeable was the absence of Ukraine, a member of the ICC since January, presumably due to concerns about the withholding of U.S. military aid. A spokesperson for its Foreign Ministry expressed only the hope that the U.S. decisions would not affect the ICC's ability to provide justice to victims of Russian aggression.

Possible Countermeasures. The constitutionality of Trump's executive order introducing sanctions can be challenged by U.S. citizens in U.S. courts. However, in such cases, the courts tend to follow the policies of the current administration, and even if the complaint were to reach the last instance, the Supreme Court, it is likely to be rejected in view of the clear dominance of Republican-nominated judges on its bench (6 to 3). It would also be possible for the U.S. Congress to pass a bill lifting the restrictions, but it would require a two-thirds majority in both chambers to override a presidential veto. This is unrealistic, as already on 9 January the House of Representatives passed legislation similar to Trump's order by a majority of 243 to 140 (all Republicans and 45 Democrats), which was blocked by the Senate on 31 January only thanks to the efforts of the Democrats. Trump's decision therefore enjoys cross-party support, although not unanimous.

The ICC could potentially take proceedings against the U.S. administration, including President Trump, for obstruction of justice under Article 70 of the Rome Statute under which it operates. However, such a step would either expose to U.S. sanctions countries visited by U.S. officials subject to

these proceedings or force these countries to break their commitments towards the ICC. For the time being, therefore, it does not appear that the court will opt for this. An option suggested to the EU by the ICC is for the Union to apply the so-called [blocking statute](#), which is used by the Union to counter secondary sanctions by third countries that are contrary to international law. Among other things, the status allows EU companies to obtain compensation for non-compliance imposed by such states. However, this entails judicial confiscation of the assets of the offending entity located in the Union. This would lead to an escalation of tensions with the U.S. and possibly the prompt [imposition of high tariffs by the U.S. on the EU](#).

Conclusions and Recommendations. The U.S. sanctions confirm Trump administration's confrontational approach to ICC operations and consistent support for Israel. Their real impact will depend on who and how many people they affect. Nonetheless, they are already having a "chilling effect", discouraging some victims, witnesses, NGOs, and state officials from cooperating with the ICC, primarily in cases involving the U.S. and Israel, but partly also investigations into, for example, crimes in [Belarus](#) and [Ukraine](#). They may also cause problems for the court's use of, for example, IT, payment, insurance, and email services. All this will make it more difficult for it to operate and effectively prosecute suspects of the most serious crimes. Nonetheless, for the time being, it is inadvisable for the EU to use the blocking status in view of the threat of a serious escalation of tensions with the U.S. (there is also no publicly available information as to whether there are grounds for this, namely whether and by whom the ICC services were stopped after the sanctions were imposed on Karim Khan). What remains to be considered, however, is its use as an additional coercive measure should Trump impose tariffs on the EU for other reasons.

For Poland, which supports international criminal justice and advocates for the accountability of crimes in Ukraine—prosecuted by the ICC, among others—the very extension of sanctions to Prosecutor Khan is a challenge and may, for example, hinder the organisation of his visits to the country. The possible extension of sanctions to further persons and entities could cause further complications, raising difficulties in fulfilling Poland's obligations towards the court and the parties to the Rome Statute, which would hit its international credibility. This would be particularly relevant should the ICC take action against the U.S. administration for obstructing the work of the court. It would therefore be advisable, for the time being, to maintain a unified position in support of the ICC with the largest possible group of states, while constantly monitoring the behaviour of partners.