

# EU lays ground for sanctions against use and proliferation of chemical weapons

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On 15 October 2018, the EU adopted a new sanctions framework to address the use and proliferation of chemical weapons.<sup>1</sup> Unusually for EU sanctions regimes, these sanctions do not target any named country. Rather the objective is to support the prohibition laid down by the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) against the use of chemical weapons. These sanctions are aimed at “those who resort to such weapons or contribute to developing or using them”. The recitals of these sanctions state that the EU is “committed to contributing to identifying and holding accountable individuals, entities, groups or governments responsible for the use of chemical weapons, as well as those who assist or encourage such activities”.

The new sanctions rules provide for EU-wide travel restrictions<sup>2</sup> and an asset freeze against specifically listed parties (regardless of their nationality or location) that are involved in manufacturing, acquiring, possessing, developing, transporting, stockpiling, transferring, or using chemical weapons; or that engage in preparations for the use of chemical weapons. Targeted persons will also include parties that provide financial, technical or material support; or that are considered to assist, encourage or induce the listed parties to engage in such activities, or that are associated with any of these listed parties.<sup>3</sup>

The EU has not yet listed any parties at this stage, and any designations will require unanimity by the EU Member States. Future listings are widely expected to target Russian persons or entities, including the two Russian military intelligence officers allegedly involved in the Novichok poisoning of Sergei and Yulia Skripal in Salisbury (UK).

As a result of the asset freeze, all funds and economic resources belonging to, or controlled by, the listed persons and that fall under EU jurisdiction (e.g., held by EU banks) will be frozen. Furthermore, no funds or economic resources may be made available – directly or indirectly – to or for the benefit of the listed persons by parties falling under EU jurisdiction.

Member States can authorise derogations from the travel restrictions<sup>4</sup> and asset freeze<sup>5</sup> in certain limited circumstances, including, *inter alia*, where travel is justified on humanitarian grounds; or where the funds or economic resources concerned are necessary for extraordinary expenses; where release of funds is to satisfy

<sup>1</sup> See [Council Decision 2018/1544](#) of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons, and [Council Regulation 2018/1542](#) of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons.

<sup>2</sup> See Article 2 of Council Decision 2018/1544.

<sup>3</sup> See Article 2 of Council Regulation 2018/1542.

<sup>4</sup> See Article 2.6 of Council Decision 2018/1544.

<sup>5</sup> See Articles 3-6 of Council Regulation 2018/1542.

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a court or arbitral decision that predates the asset freeze; or where a payment by a listed party is due under a contract that pre-dates the asset freeze.

The asset freeze sanctions apply to the EU territory (including its airspace), to nationals of EU Member States (including those located outside the EU), and on board vessels and aircraft under Member State jurisdiction. Sanctions also apply to companies incorporated or registered under the law of an EU Member State and to other non-EU companies in respect of business done in whole or in part in the EU.<sup>6</sup> This means that non-EU companies may be affected by the measures once specific parties are listed, depending on the particular circumstances in which business activities are performed in the EU.

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<sup>6</sup> See Article 17 of Council Regulation 2018/1542.