

COMMISSION

GUIDANCE

NOTE

on the provision of
humanitarian aid in
compliance with EU restrictive
measures (sanctions)



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**COMMISSION GUIDANCE NOTE ON THE PROVISION OF HUMANITARIAN AID
IN COMPLIANCE WITH EU RESTRICTIVE MEASURES (SANCTIONS)**

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1. INTRODUCTION

The purpose of this Guidance Note is to provide practical direction on how to comply with EU restrictive measures adopted pursuant to Article 215 of the Treaty on the Functioning of the European Union ('EU sanctions') when providing humanitarian aid. This Guidance Note is addressed to all actors required to comply with EU sanctions that are involved in the provision of humanitarian aid ('Humanitarian Operators'). Humanitarian Operators include donors, international organisations, non-governmental organisations (NGOs), Member States' specialised agencies, banks and other businesses – insofar as they are involved in the provision of humanitarian aid.

1.1. Value of this Guidance Note

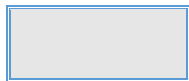
The Commission, in its role as a guardian of the EU Treaties, is tasked with ensuring that EU law is applied uniformly across the territory of the Union¹. This Guidance is also relevant for Member States' national competent authorities ('NCA'), which are in charge of enforcing sanctions, including issuing penalties and granting authorisations for derogations².

1.2. How to read this Guidance Note

This Guidance Note comprises a number of different Chapters, each of which is divided into specific Points, in which the Commission provides its analysis of specific issues concerning EU sanctions and their possible interaction with the provision of humanitarian aid. Points may include the following signs:



An arrow indicates a cross reference to other relevant documents;



A box contains fictional examples of the Commission's analysis of the underlying Point.

¹ However, only the Court of Justice of the European Union can issue binding interpretations of EU law.

² The list of NCAs is included in Commission Implementing Regulation (EU) 2022/595 of 11 April 2022, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.114.01.0060.01.ENG&toc=OJ%3AL%3A2022%3A114%3ATOC.

At the end, this Guidance Note includes a non-exhaustive checklist concerning points that Humanitarian Operators should consider when carrying out due diligence for sanctions compliance (see Point 4.2).

1.3. Sources of EU sanctions, guidance and other relevant documents

EU sanctions regimes are established by Council Decisions and Council Regulations, which are published in the *Official Journal of the European Union* (OJ), the official source of EU law³. The EU sanctions referred to in this Guidance note are laid down in the following acts⁴:

- Council Regulation (EU) No 753/2011 ('Afghanistan sanctions')⁵;
- Council Regulation (EC) No 765/2006 ('Belarus sanctions')⁶;
- Council Regulation (EU) 2018/1542 ('Chemical weapons sanctions')⁷;
- Council Regulation (EU) 2017/1509 ('DPRK sanctions')⁸;
- Council Regulation (EU) 2020/1998 ('Global human rights sanctions')⁹;
- Council Regulation (EU) No 267/2012 ('Iran weapons of mass destruction (WMD) sanctions')¹⁰;
- Council Regulation (EU) No 359/2011 ('Iran human rights sanctions')¹¹;
- Council Regulation (EU) 2019/1716 ('Nicaragua sanctions')¹²;
- Council Regulation (EU) No 401/2013 ('Myanmar/Burma sanctions')¹³;

³ <https://eur-lex.europa.eu/oj/direct-access.html>.

⁴ These EU sanctions have been selected as relevant examples for the principles of interpretation set out in this Guidance Note.

⁵ Council Regulation (EU) No 753/2011 of 1 August 2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan.

⁶ Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine.

⁷ Council Regulation (EU) 2018/1542 of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons.

⁸ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007.

⁹ Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses.

¹⁰ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010.

¹¹ Council Regulation (EU) No 359/2011 of 12 April 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran.

¹² Council Regulation (EU) 2019/1716 of 14 October 2019 concerning restrictive measures in view of the situation in Nicaragua.

¹³ Council Regulation (EU) No 401/2013 concerning restrictive measures in view of the situation in Myanmar/Burma and repealing Regulation (EC) No 194/2008.

- Council Regulation (EU) No 833/2014 ('Russia sanctions')¹⁴;
- Council Regulation (EU) No 36/2012 ('Syria sanctions')¹⁵;
- Council Regulation (EU) No 356/2010 ('Somalia sanctions')¹⁶;
- Council Regulation (EU) No 269/2014 ('Ukraine territorial integrity sanctions')¹⁷;
- Council Regulation (EU) 2022/263 ('Donetsk and Luhansk sanctions')¹⁸;
- Council Regulation (EU) 2016/1686 of 20 September 2016 ('EU Autonomous Al-Qaida and ISIL sanctions')¹⁹;
- Council Regulation (EC) No 881/2002 ('UN-based Al-Qaida and ISIL sanctions')²⁰;
and
- Council Regulation (EU) 2017/2063 ('Venezuela sanctions')²¹.

In addition, this Guidance Note must be read in combination with the below documents and tools. The Commission has already adopted extensive guidance on certain EU sanctions regimes, including on the provision of humanitarian aid in compliance with EU sanctions. The most relevant guidance documents are listed below:

- Commission guidance note on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures (2020-2021) ('COVID-19 Guidance')²²;

¹⁴ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

¹⁵ Council Regulation (EU) No 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011.

¹⁶ Council Regulation (EU) No 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia.

¹⁷ Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

¹⁸ Council Regulation (EU) 2022/263 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas.

¹⁹ Council Regulation (EU) 2016/1686 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Da'esh) and Al-Qaeda and natural and legal persons, entities or bodies associated with them.

²⁰ Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations.

²¹ Council Regulation (EU) 2017/2063 of 13 November 2017 concerning restrictive measures in view of the situation in Venezuela.

²² https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/210813-humanitarian-aid-guidance-note_en.pdf.

- Commission Frequently Asked Questions on EU restrictive measures in Syria ('Syria FAQs')²³;
- Commission Guidance note on the implementation of Global human rights sanctions ('Global Human Rights Guidance')²⁴;
- Commission Guidance Note on the implementation of certain provisions of Myanmar/Burma Sanctions ('Myanmar/Burma Sanctions Guidance')²⁵; and
- Commission Opinion of 8 June 2021 on Article 2(2) of Council Regulation (EU) No 269/2014 (Commission Opinion of 8 June 2021)²⁶.

Additionally, the Commission maintains or has made available the following tools to navigate EU sanctions:

- EU Sanctions Map, an interactive map of EU sanctions, with consolidated versions of Council Decisions and Council Regulations ('Sanctions Map')²⁷;
- Financial sanctions database, containing an up-to-date consolidated list with all designated person and entities under an asset freeze and a prohibition to make funds available to them ('FSD')²⁸;
- EU-level humanitarian contact point, a mailbox where Humanitarian Operators can submit requests for information in relation to humanitarian derogations ('EU contact point')²⁹;
- Factsheet on Member State procedures to grant humanitarian derogations from EU restrictive measures, a non-official summary of procedures established by Member

²³ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/170901-faqs-restrictive-measures-syria_en.pdf.

²⁴ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/201217-human-rights-guidance-note_en.pdf. The Sanctions Map was developed by the 2017 Estonian presidency of the Council of the European Union.

²⁵ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/210511-restrictive-measures-myanmar-guidance-note_en.pdf.

²⁶ Available at: https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/210608-ukraine-opinion_en_0.pdf. In the sanctions dedicated website, the Commission published also legal opinions on a number of issues; they are available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/200526-risk-management-guide_en_0.pdf.

²⁷ <https://www.sanctionsmap.eu/#/main>.

²⁸ <https://webgate.ec.europa.eu/fsd/fsf#!/files>.

²⁹ https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/eu-level-contact-point-humanitarian-aid-environments-subject-eu-sanctions_en.

State to grant authorisations for derogation for humanitarian purposes ('Factsheet on derogations')³⁰;

- Risk management principles guide for sending humanitarian funds into Syria and similar high-risk jurisdictions ('Risk management guide')³¹;
- Frequently asked questions on the Russia economic sanctions ('Russia FAQs')³²; and
- Q&A on due diligence on restrictive measures for EU businesses dealing with Iran ('Q&A on due diligence for business with Iran')³³.

Humanitarian Operators should also take into account the EU Council Best Practices for the effective implementation of restrictive measures ('EU Council Best Practices')³⁴, the EU JCPOA Information note³⁵ and the Questions & Answers on the EU Global Human Rights Sanctions Regime from the European Union External Action Service³⁶.

2. GENERAL INFORMATION

2.1. Scope of application of EU sanctions

EU institutions, Member States, Member State nationals, legal persons and entities under the jurisdiction of a Member State and anyone operating in the EU territory must comply with EU sanctions. This includes EU nationals, for instance working for NGOs, NGOs incorporated under the law of a Member State and NGOs incorporated under the law of a third country that deliver humanitarian aid via operations organised in part or in full in the EU territory³⁷.

³⁰ https://ec.europa.eu/info/publications/eu-restrictive-measures-humanitarian-derogations-factsheet_en.

³¹ Non-official guide supported by the Commission available at https://ec.europa.eu/info/files/200526-risk-management-guide_en.

³² https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/sanctions-adopted-following-russias-military-aggression-against-ukraine_en.

³³ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/faqs-restrictive-measures-iran_en.pdf

³⁴ <https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf>.

³⁵ https://www.eeas.europa.eu/iran/information-note-lifting-eu-sanctions-under-joint-comprehensive-plan-action-jcpoa_en?s=3225.

³⁶ https://www.eeas.europa.eu/eeas/questions-and-answers-eu-global-human-rights-sanctions-regime_en.

³⁷ There is always a standard article in EU sanctions regimes that defines the scope of this jurisdiction. That article reads: "the Regulation applies within the territory of the Member States, including their airspace; on board any aircraft or vessel under the jurisdiction of a Member State; to any citizen of a Member State; to any entity incorporated or constituted under the law of a Member State; and to any entity, in respect of any business done in whole or in part within the EU" (see, e.g., Article 35 of the Syria sanctions).

Being an EU Common Foreign and Security Policy (CFSP) tool, EU sanctions are expected to exert pressure on certain persons or entities whose behaviour EU sanctions are intended to deter or change. However, they do not apply extra-territorially. In other words, Humanitarian Operators that do not fall under the scope of application of EU sanctions are not required to comply with EU sanctions. However, when a Humanitarian Operator receives funds from an EU or a Member State institution under a donor agreement with a sanctions compliance clause, the Humanitarian Operator has to comply with the EU sanctions as per the contractual obligation³⁸.

2.2. Relevant EU sanctions

All EU sanctions must be complied with at all times. Natural and legal persons, entities and bodies may be designated ('designated persons') under one or more sanctions regimes, including thematic ones. Humanitarian Operators should not limit their internal procedures for sanctions compliance (see Point 4.2) to the EU sanctions that bear in the title the name of the country where the humanitarian operation is to be conducted (e.g. Syria sanctions for operations in Syria). Moreover, certain EU sanctions are not primarily attached to a specific region or country since they impose financial sanctions on persons and entities operating in a variety of areas or on a global scale³⁹.

This said, certain EU sanctions are inherently more relevant for certain specific Humanitarian Operations and should receive enhanced attention before and during the delivery of humanitarian aid. By way of example, EU sanctions regimes establish sectoral restrictions on items to be exported or used in the third country where humanitarian aid is to be provided, or financial restrictions on designated persons operating in that country. Humanitarian Operators should apply their expertise to identify those EU sanctions that are particularly relevant for a humanitarian project of higher relevance and seek the assistance of their NCAs, when needed. The 'identifiers' (i.e. personal or other information) of designated persons and entities can also be relevant to identify the relevant EU sanctions regimes and thus the scope of the applicable sanctions to the concerned activities.

➡ [COVID-19 Guidance](#), Syria Chapter Q. 23; Iran Chapter Q. 17; Counter Terrorism Chapter, Q. 14 and 15.

Case 1: Humanitarian operators providing aid in Syria should first and foremost pay attention to the measures set out in the Syria sanctions. They should nevertheless also pay attention to designated persons under the UN-based Al-Qaida and ISIL sanctions, the EU Autonomous Al-Qaida and ISIL sanctions and the Chemical weapons sanctions, as some of these persons operate in Syria.

Case 2: Humanitarian Operators providing aid in the non-government controlled areas of the Luhansk oblast in Ukraine should pay particular attention to the sectoral restrictions under the Donetsk and Luhansk

³⁸ See in this respect endnote XVII in the Fact-sheet on member state procedures to grant humanitarian derogations from EU restrictive measures (sanctions) available at https://ec.europa.eu/info/publications/eu-restrictive-measures-humanitarian-derogations-factsheet_bg.

³⁹ For instance, UN-based Al-Qaida and ISIL sanctions.

sanctions as well as to the designations under the Ukraine territorial integrity sanctions.

Case 3: Humanitarian Operators organising flights for evacuations from Syria should consider whether Syrian airlines are designated under the Belarus sanctions.

2.3. Third countries' sanctions

EU law does not require Humanitarian Operators that fall under the scope of application of EU sanctions to comply with third countries' sanctions. Humanitarian Operators are free to comply with those sanctions, with the exception of those included in the Annex to Council Regulation (EC) No 2271/96 ('EU Blocking Statute')⁴⁰.

Sanctions established by the United Nations (UN) Security Council under Chapter VII of the United Nations Charter are transposed into EU law by Council decisions and Council regulations. Humanitarian Operators are bound by the EU transposition of these UN sanctions.

➡ [COVID-19 Guidance](#), Chapter Iran, Q. 18, Chapter Venezuela, Q. 14.

Case 1: An EU Humanitarian Operator provides humanitarian aid in Venezuela. It must make sure that no funds or economic resources are made available to designated persons or entities under EU sanctions, in particular those under the Venezuela sanctions. That EU Humanitarian Operator may decide, at its discretion, to ensure that no funds are made available to persons designated under third country sanctions.

⁴⁰ Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom. This Regulation protects EU persons engaged in lawful international trade and/or movement of capital with Iran and Cuba, as well as related commercial activities, against the effects of the foreign laws specified in its Annex. The Commission can also grant authorisations to comply with those foreign sanctions pursuant to Article 5 of Council Regulation (EC) No 2271/96. Further information are available on the Commission website at https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/blocking-statute_en.

3. EU SANCTIONS AND HUMANITARIAN AID

3.1. Types of EU sanctions

EU sanctions consist, inter alia⁴¹, of prohibitions to carry out certain business activities. These can take the form of:

- ‘individual financial sanctions’; or
- ‘sectoral’ or ‘economic sanctions’.

Individual financial sanctions consist of an asset freeze and a prohibition to make funds and economic resources available to, or for the benefit of, specifically designated persons. The latter is the most relevant provision for the majority of Humanitarian Operators⁴². Such a prohibition can concern funds that are provided to designated persons for contracting services that are necessary for the delivery of humanitarian aid to final beneficiaries (see Point 3.3).

Sectoral sanctions are broader restrictions on certain business activities in specific economic sectors. They can concern the prohibition on the Humanitarian Operator to carry into the country of operation certain goods (export) and/or use them, or to provide certain services.

The main difference between these two types of EU sanctions is that while individual financial sanctions concern the provision of funds and economic resources to clearly identified persons, sectoral sanctions usually entail a restriction on engaging in certain business operations with or providing services to anyone in a specific third country.

Case 1: the Ukraine territorial integrity sanctions only include individual financial sanctions.

Case 2: the Donetsk and Luhansk sanctions only include sectoral sanctions.

Case 3: the Syria sanctions include both sectoral and individual financial sanctions.

⁴¹ The restrictive measures indicated in this Guidance Note are included in the Council regulations adopted pursuant to Article 215. The corresponding Council decision may also include travel bans for certain persons and arms embargoes, which are however not the subject of this Guidance Note.

⁴² An asset freeze means that EU operators, including humanitarian ones, must prevent dealing with funds or economic resources in any way that would result in any change to their features which would enable the funds to be used (by anyone). While it is unlikely for the majority of humanitarian operators to hold funds or economic resources of designated persons, they should nevertheless comply with the asset freeze measures.

3.2. EU sanctions are targeted

EU sanctions are targeted. They only prohibit specific actions as well as participating, knowingly and intentionally, in activities the object or effect of which is to circumvent those prohibitions. In particular, EU sanctions do not establish a no-contact policy.

Case 1: Humanitarian Operators can export items for humanitarian aid to Nicaragua, given that the Nicaragua sanctions do not provide for any sectoral restrictions. This is however provided that such items for humanitarian aid will not be made available, directly or indirectly, to or for the benefit of designated persons (prohibition to make funds or economic resources available).

3.3. Prohibition to make funds and economic resources available to designated persons or for their benefit

This measure prohibits the placing of any funds or economic resources at the disposal of designated persons, directly or indirectly, whether by gift, sale, barter or any other means, including in return of the designated person's own resources.

Both the concept of 'funds' and the concept of 'economic resources' are defined in a standard and broad way in EU sanctions⁴³, and are interpreted broadly by EU courts⁴⁴. 'Funds' includes financial assets of any kind, such as money, of any currency and in any form (e.g. cash, cheques), as well credits and deposits, provided in any form, including via the use of informal money transfer systems such as havaleh/hawala/xawala/xawilaad/hundi⁴⁵ or other types of money transfer to cash. 'Economic resources' refers to any asset that does not qualify as funds but that can be used to obtain funds, goods or services. Goods, including those necessary for humanitarian aid, can fall in this category, since, if supplied to a designated person, they can be sold or exchanged by the latter for funds or services. For an asset, to qualify as an 'economic resource', it is not necessary to prove that it will be used to obtain funds. In general, any business conducted with a designated person will likely involve an exchange of funds or economic resources.

Humanitarian Operators are not allowed to provide funds or economic resources (e.g. goods) to a designated person, even if that person ('intermediary') is supposed to deliver them to individuals in need⁴⁶. A notable exception to this rule is if this person qualifies as a person in need under International Humanitarian Law (see Point 3.13) or if humanitarian

⁴³ See, e.g., Article 1(d) and 1(g) of Global human rights sanctions.

⁴⁴ EU courts have stated that: "[t]he notion of 'funds and economic resources' is wide in scope, covering assets of every kind, however acquired" (see, e.g., case C-168/17, *SH*, Judgment of 17 January 2019, EU:C:2019:36, para. 53; by analogy, case C 550/09, *E and F*, Judgment of 29 June 2010, EU:C:2010:382, para. 69; and most recently, as to 'freezing of funds', case C 340/20, *Bank Sepah*, Judgment of 11 November 2021, ECLI:EU:C:2021:903, para. 43).

⁴⁵ These are value transfer system based on informal networks of money brokers.

⁴⁶ In this specific case, see Point 3.5 on indirect provision of funds or economic resources.

exceptions covering such a specific circumstance are provided for in the relevant Regulation (see Point 3.8; see also Point 3.14).

EU sanctions do not prohibit liaising with designated persons, as long as no funds or economic resources are made available to them, directly or indirectly, or for their benefit (see point 3.2). Humanitarian Operators should however exercise utmost caution when engaging with designated persons involved in the supply of humanitarian aid, and ensure for instance that these persons do not receive goods or services or gain knowledge that can be used to obtain funds.

➡ [COVID-19 Guidance](#), Section 1 of all Chapters.

Case 1: it is prohibited to contract logistics services from a designated company to transport humanitarian aid material in exchange for money.

Case 2: it is prohibited to donate medical devices to a designated person, unless it is a final beneficiary of aid (i.e. a person in need of humanitarian aid).

Case 3: it is prohibited to work as a doctor for a designated group or organisation, if that group may obtain funds from it (e.g. it charges patients for the assistance).

Case 4: it is not prohibited to meet with a designated person to discuss practicalities of the delivery of humanitarian aid to people in need located in areas under its control. However, that person must not, inter alia, receive funds, goods, trainings or other services or knowledge from which it can draw financial benefits.

3.4. Designated persons

The names and identifying information of designated persons can be found in an annex to the Council regulation establishing EU sanctions, along with the specific reasons why these persons were included in that list ('statement of reasons'). The Council of the EU or the Commission are responsible for amending those annexes and they do so by means of legal acts, which are published in the *Official Journal of the European Union*. The names and identifying information of the designated persons are also reflected in the EU Sanctions Map and in the Financial Sanctions Database (see Point 1.3).

The list of designated persons can include a variety of 'targets', including individuals, companies, paramilitary forces, military factions, state bodies and non-internationally recognised entities as well as groups of any kind, including fake charities⁴⁷.

3.5. Indirect provision of funds or economic resources

Funds and economic resources cannot be provided to designated persons either directly or indirectly, unless those persons qualify as persons in need of humanitarian aid ('final beneficiaries') (see Point 3.13), or if humanitarian exceptions are provided for in the

⁴⁷ See, e.g., entry 'Global Relief Foundation', under Annex I to the UN-based Al-Qaida and ISIL sanctions.

relevant regulation (see Point 3.8; see also Point 3.14). By way of example, Humanitarian Operators cannot provide funds to a person if that person will then make them available to a designated person or to other persons that will, ultimately, make them available to a designated person. EU sanctions do not include a limit to this obligation; Humanitarian Operators, just as any other operators that need to comply with EU sanctions, are held responsible if anyone that receives funds or economic resources from them at some point makes those funds or economic resources available to a designated person⁴⁸. However, the Humanitarian Operator's liability would be excluded if it demonstrates that it did not know or could not have reasonably suspected this outcome (see Point 4.5).

In this respect, two specific situations should be considered.

- Non-designated persons owned or controlled by a designated person

The typical case of indirect provision of funds or economic resources to a designated person consists of a non-designated company which is owned by or under the direct or indirect control of a designated company or individual. The Commission has published a number of documents that set out examples of criteria to determine whether the recipient of funds or economic resources is owned or controlled by a designated person; the EU Council Best Practice also address this aspect (see reference below). If any of those conditions are met, the Humanitarian Operators must refrain from making funds or economic resources available to that non-designated company, unless the Humanitarian Operators determines that the funds or economic resources will not be used by or for the benefit of the designated person. Humanitarian exceptions may also apply (see Point 3.8 and Point 3.14).

While the majority of cases concerning ownership and control involve companies controlled by private persons or other companies, it might also be the case that a Humanitarian Operator has to assess if a legal entity established in a third state (whether constituted under private or public law) is controlled by a designated person with a public function in that state (e.g. a designated minister). In this respect, it should be noted that EU sanctions are targeted and the designation of an individual does not equate to designating the state branch that he or she represents *pro tempore*. However, the Humanitarian Operator should make use of the ownership and control criteria indicated above, and of any other suitable indicator, to assess if the designated person with a public function has control over the legal entity of the state that will receive the funds or economic resources. This could be the case for instance if, because of his or her role, the designated person has the power to divert those funds to himself or herself, or use them for his or her benefit.

➡ [Commission Opinion of 8 June 2021](#); [EU Council Best Practices](#), Section B.VIII; [Russia FAQs](#), Section B. Individual financial measures.

⁴⁸ See Chapter 4 of this Guidance Note on sanctions compliance.

Case 1: it is prohibited to procure services in exchange of money from a non-designated supplier that is controlled by a designated military wing of a political party which has *de facto* control over a territory or by a designated business person.

Case 2: it is prohibited to provide goods (economic resources) for humanitarian aid to an entity of the state in a third country knowing that the entity will give them to a designated organisation that, in addition to its military role, acts as civil protection and humanitarian organisation in the country.

Case 3: it is prohibited to transfer funds for humanitarian aid to the bank account in a third country where a government member is designated, if it is known that that person will have control, directly or indirectly, of those funds.

- Taxes

Humanitarian Operators might be required to pay taxes, import duties or other fees to local governments to carry out humanitarian operations in third countries. Paying taxes in an environment under sanctions is *per se* not prohibited. However, Humanitarian Operators must ensure that those payments are not going to be made available to or for the benefit of designated persons. Enhanced attention should be paid to the EU sanctions which include designations with roles in the government of the country where humanitarian aid is to be provided or that have informal government functions.

A case-by-case assessment is warranted to assess if a clear and precise link can be established between the relevant taxes and the power of the designated persons to access the underlying funds. Humanitarian Operators should take into consideration the specificities of the relevant situation in the third country in relation to which sanctions are in place and where taxes are collected. Humanitarian exceptions may also apply (see Point 3.8, Point 3.14 and Point 4.5 concerning the limitation of liability).

➡ [COVID-19 Guidance](#), Chapter Syria, Q.14.

Case 1: Humanitarian Operators should carefully assess whether proving funds for alleged 'import duties' imposed by a designated military commander in Syria to allow transportation of humanitarian aid goods into a camp under its control is making funds available to a designated persons, which is likely.

Case 2: Humanitarian Operators should ensure, and seek confirmation from the relevant NCA if necessary, that amounts retained on the payslip of their local staff in Nicaragua as 'labour taxes' will not benefit designated persons under the Nicaragua sanctions or other EU sanctions.

3.6. Sectoral restrictions

Such restrictions usually entail the prohibition to import, export to or purchase goods in certain third countries or supply or use them there, or provide certain services. A list of the relevant goods and services that cannot be traded, with the corresponding combined nomenclature⁴⁹, is in general included in the annexes to the relevant EU sanctions regulations. In case of uncertainty regarding the specific Combined Nomenclature ('CN') code that is applicable to the goods⁵⁰, Humanitarian Operators should seek the necessary clarifications from the manufacturer or from their NCA. Only a limited number of EU sanctions include sectoral restrictions. The most relevant restrictions in countries where humanitarian aid is usually provided are the following:

Syria sanctions

- Fuel purchase, that might be needed for local transportation;
- Jet fuel export, that might be needed for evacuations;
- Construction of new power plants for electricity production;
- Provision of banking services, that might be needed for transferring funds for humanitarian operations; and
- Export of chemicals, that might be needed as raw materials for certain products, such as disinfectants.

Iran Weapons of Mass Destruction (WMD) sanctions

- Export of certain computers as well as dual-use goods that might be needed as ancillary items to the provision of humanitarian aid.

DPRK sanctions

- Cap on the transfer of funds into DPRK.

Donetsk and Luhansk sanctions

- Export and use of telecommunication and transportation items, which might be needed as ancillary goods to provide humanitarian aid;

Sectoral restrictions on the import, export, supply, sale and use of items normally include restrictions on the provision of financing, financial assistance, maintenance, brokerage and technical assistance for the underlying items. A number of EU sanctions include restrictions on dual-use items, in which case, specific export licensing procedures, handled by customs authorities of the Member States from where the goods leave the EU territory, apply. The export and supply of protective items is usually exempted from general

⁴⁹ For the combined nomenclature, see https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/customs-tariff/combined-nomenclature_en.

⁵⁰ Humanitarian Operators should be aware that services have no CN codes.

restrictions concerning equipment which might be used for internal repression, if the items are intended solely for humanitarian use⁵¹.

➡ [COVID-19 Guidance](#), Chapter Syria, Iran.

Case 1: It is prohibited to export water pumps under CN code 8413 into non-government controlled areas of Luhansk oblast, unless a humanitarian exception applies.

Case 2: It is prohibited to provide export generators under CN code ex 8501 to be used in the construction or installation in Syria of new power plants for electricity production.

3.7. Unintended impact of EU sanctions on humanitarian aid

EU sanctions are targeted and directed at those responsible for the policies or actions the EU wants to influence, such as decision-makers or company executives. The EU is committed to avoiding and, where unavoidable, mitigating to the maximum extent possible any potential unintended negative impacts of EU restrictive measures on humanitarian action. Consequently, EU sanctions neither impose sectoral measures on trade in items that are necessary to provide humanitarian aid, such as the provision of medical assistance, medicines or medical equipment, nor target impartial humanitarian organisations acting in accordance with humanitarian principles and International Humanitarian Law.

However, certain sectoral restrictions might apply to trade in sectors ancillary to humanitarian aid (e.g. fuel, banking transactions, financing, export of certain equipment for telecommunication). In other cases, humanitarian items might have a dual use (i.e. military and civilian use). In those cases, EU sanctions may provide for humanitarian exceptions which can consist of either exemptions or derogations (see Point 3.8 and Point 3.14)⁵².

3.8. Humanitarian exceptions

Humanitarian exceptions are provisions in EU sanctions which allow Humanitarian Operators to carry out otherwise restricted actions under the condition that they have a humanitarian purpose. EU sanctions may provide for two categories of exceptions: exemptions and derogations (see 3.8.1 and 3.8.2 for details). The inclusion of humanitarian exceptions do not preclude Humanitarian Operators to make use of other exceptions that may be contained in EU sanctions, if the conditions for that are met.

⁵¹ See, e.g., Article 1e of the Belarus sanctions. For dual use items, see Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

⁵² See footnote 51.

Exceptions can be used by all Humanitarian Operators (e.g. Afghanistan sanctions)⁵³ or by specific categories only (e.g. Ukraine territorial integrity sanctions, Syria sanctions, Somalia sanctions)⁵⁴. In case of doubt as to the scope of an exception, the Humanitarian Operator should contact the relevant NCA(s). When making use of humanitarian exceptions, Humanitarian Operators must consider the following principles:

- Exceptions must be applied narrowly in order not to undermine the goals of EU sanctions⁵⁵. Humanitarian Operators must always seek solutions that do not breach EU sanctions. Accordingly, Humanitarian Operators are required first and foremost to channel humanitarian aid via actions and persons that are not restricted under EU sanctions. When it is not possible, they can make use of humanitarian exceptions (See also Point 3.14).
- Humanitarian exceptions only apply to the authorised actions as specified under the corresponding sanctions regime. Humanitarian Operators should ascertain that no other restrictions concerning a same action apply under other provisions of the same sanction regime and/or other sanctions regimes. As a result, depending on the circumstances, more than one authorisation might be required, or an action that is permitted under one regime if for humanitarian purpose might still require the Humanitarian Operator applying for an authorisation under the provisions of another sanction regime (see cases 1 and 2 for examples).

➡ [EU Council Best Practices](#), Section B. X and XI; [Syria FAQs](#), Q. 18.

⁵³ Article 3(4) of the Afghanistan sanctions.

⁵⁴ See, e.g., the exemption under Article 2a(1) of the Ukraine territorial integrity sanctions benefits only organisations and agencies which are pillar-assessed by the Union and with which the Union has signed a financial framework partnership agreement on the basis of which the organisations and agencies act as humanitarian partners of the Union (the list of which is available at the following hyperlink: https://ec.europa.eu/echo/document/download/ebbcbf81-71bf-48a7-b934-edbc7256713f_en?filename=list_ios_partners_2021.pdf); the exemption under Article 4(1) of the Somalia sanctions benefits only the United Nations, its specialised agencies or programmes, humanitarian organisations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners, including bilaterally or multilaterally funded NGOs participating in the United Nations Humanitarian Response Plan for Somalia; the exemption under Article 16a(1) of the Syria sanctions benefits only public bodies or legal persons, entities or bodies which receive public funding from the Union or Member States to provide humanitarian relief in Syria or assistance to the civilian population in Syria.

⁵⁵ See, e.g., Judgment of 5 March 2015, *Statoil Fuel & Retail*, C-553/13, EU:C:2015:149, paragraph 39; judgment of 6 July 2000, *Dietrich*, C-11/99, EU:C:2000:368, paragraph 50. See also Commission Opinion of 8 June 2021.

Case 1: A Humanitarian Operator, not receiving funds from the EU or from a Member State, that purchases fuel from a designated entity under the Syria sanctions needs to obtain two authorisations: one for the purchase of fuel and one for making funds available to a designated persons⁵⁶.

Case 2: A Humanitarian Operator, that (i) holds the EU Humanitarian Partnership Certificate but (ii) is not pillar-assessed by the Commission and that wants to export telecommunication equipment included in Annex II to the Donetsk and Luhansk sanctions in the non-government controlled areas of the Donetsk and Luhansk oblasts, has to consider that it benefits from the exemption under the Donetsk and Luhansk sanctions but needs to apply for an authorisation under the Ukraine territorial integrity sanctions, if this would result in providing economic resources, directly or indirectly, to a designated person.

3.8.1. *Humanitarian exemptions*

Humanitarian exemptions mean that a restriction does not apply when the underlying action has a humanitarian purpose. In that case, Humanitarian Operators can carry out the action in question without any delay and without the need to inform or obtain an authorisation from an NCA. Importantly, exemptions do not amount to blank cheques; the Humanitarian Operator must ensure that no violations occur (see Points 4.1-4 concerning the compliance procedure obligations and Point 4.5). The Humanitarian Operator also takes responsibility for ensuring that the action has a humanitarian purpose. Consequently, a restricted action carried out for a non-humanitarian purpose (e.g. peace and stability) does not benefit from the exemption.

Exemptions may concern sectoral restrictions⁵⁷ as well as the prohibition to make funds or economic resources available to designated persons for all or only specific actions⁵⁸.

Case 1: A Humanitarian Operator can pay for services from a designated person under the Afghanistan sanctions if those services are necessary for the timely delivery of humanitarian aid.

3.8.2. *Derogations (Authorisations)*

Humanitarian derogation means that an action that would be otherwise prohibited by the sanctions can be carried out for humanitarian purposes only after the NCA has granted an

⁵⁶ The two authorisations can be materially included in one decision of the NCA.

⁵⁷ See Articles 6a(1) and 16a(1) of Syria sanctions as well as Articles 4a and 5a of the Donetsk and Luhansk sanctions.

⁵⁸ See Article 16a(1) of Syria sanctions and Article 2a(1) of the Ukraine territorial integrity sanctions.

authorisation to do so, in accordance with the relevant Council Regulation. Humanitarian operators have to apply for derogation from the relevant NCA. The list of NCAs is annexed to each EU sanctions regime⁵⁹. When the NCA decides to issue an authorisation, such authorisation must be explicit and positive, with the exception of authorisations granted under Article 2a(3) of the Ukraine territorial integrity sanctions (i.e. silence procedures)⁶⁰. Humanitarian Operators should make sure they address the relevant NCA. The Commission's humanitarian contact point can help to identify the relevant NCA.

Special procedures apply in the case of certain derogations for DPRK and Yemen sanctions, whereby the application is made to the NCA, which then submits it to the UN Sanctions Committee⁶¹.

The NCAs grant authorisations for each specific restriction, under the terms and conditions they deem appropriate, and in accordance with the relevant Council Regulation. Those conditions may include reporting obligations as well as the obligation on the Humanitarian Operator to adopt risk mitigation measures. The Syria sanctions⁶², the Ukraine territorial integrity sanctions⁶³ and the Donetsk and Luhansk sanctions⁶⁴ allow NCAs to issue general authorisations, for instance for recurring restricted actions necessary to provide humanitarian aid. Humanitarian Operators can find information on the procedure to obtain authorisations in the Factsheet on derogations (see below).

➡ [COVID-19 Guidance](#), Chapter Syria and Nicaragua, Sections IV; [EU contact point](#); [Factsheet on derogations](#); [Syria FAQ](#), Q. 11.

Case 1: A Humanitarian Operator that needs to provide funds to a designated person for humanitarian purpose under the Nicaragua sanctions must, before doing so, obtain an explicit authorisation from the NCA with which it has the closest link.

Case 2: A Humanitarian Operator, which is not pillar-assessed by the European Commission and needs to provide funds to a designated person for humanitarian purposes under the Ukraine territorial integrity sanctions must, before doing so, obtain an authorisation from the NCA with which it has the closest link. If after five working days from the request the NCA has not issued a negative decision, a request for information or a notification for additional time, the authorisation is considered granted.

⁵⁹ See, e.g., Annex III to the Syria sanctions. The list is also available at: https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/national-competent-authorities-sanctions-implementation_en.pdf.

⁶⁰ In this case, in the absence of a negative decision, a request for information or a notification for additional time from the NCA within five working days of the date of receipt of a request for authorisation, the authorisation must be considered granted.

⁶¹ Article 45 of the DPRK Sanctions and Article 3a(b) of Yemen sanctions.

⁶² Articles 6a(2) and 16a(2) of the Syria sanctions.

⁶³ Article 2a(2) of Ukraine territorial integrity sanctions.

⁶⁴ Articles 4a(2) and 5a(2) of Donetsk and Luhansk sanctions.

The Humanitarian Operator must ensure that the request is addressed to the relevant NCA, otherwise the derogation cannot be considered granted. To this end, it can seek confirmation from the NCA itself.

3.9. Humanitarian purposes

Humanitarian exceptions apply to restricted actions that have humanitarian purposes only⁶⁵.

EU sanctions do not include a definition of ‘humanitarian purposes’. According to point 76 of the EU Council Best Practices, they may comprise delivering or facilitating the delivery of assistance, providing medical supplies and food to persons in need, the transfer of humanitarian workers and related assistance or evacuations of persons in need. Indications of what humanitarian aid refers to are usually included in the EU sanctions where derogations are laid down⁶⁶. Humanitarian projects should be primarily assessed against those indications. The COVID-19 Guidance includes several examples of actions that are intended for humanitarian aid relating to medical assistance.

To assess whether a project qualifies as humanitarian, the Humanitarian Operator must take into account International Humanitarian Law, the law of armed conflict, which intends *inter alia* to solve humanitarian problems arising in the context of an armed conflict, whether of an international or a non-international character. The fundamental principles of humanity, neutrality, impartiality and independence should guide the conduct of humanitarian operations.

Humanitarian Operators can seek assistance from their NCA as to whether specific actions qualify as humanitarian aid.

➡ [EU Council Best Practices](#), Section X; [COVID-19 Guidance](#); [EU contact point](#).

3.10. Humanitarian exceptions and non-humanitarian projects

Restricted actions that are carried out in the context of projects that have development, civil protection, peace and stability programmes and other non-humanitarian purposes do not fall within the scope of the humanitarian exceptions laid down in EU sanctions. Therefore, a case-by-case assessment to verify if an action qualifies as having a humanitarian purpose is necessary. Exceptions must be applied narrowly (see Point 3.8). In case of doubt, and to avoid violations of sanctions, Humanitarian Operators should seek guidance from their NCA.

⁶⁵ In rare cases, mostly concerning UN-based sanctions, a different wording is used (e.g., Article 3(4) of the Afghanistan sanctions reads: ‘Paragraphs 1 and 2 shall not apply to the making available of funds or economic resources necessary to ensure the timely delivery of humanitarian assistance and other activities that support basic human needs in Afghanistan or to support such activities’. Article 3m(9) of the Russia sanctions refers to ‘humanitarian projects’.

⁶⁶ See, e.g., Article 8(1) of DPRK sanctions; and Article 7a(3) of Syria sanctions.

In certain cases, EU sanctions include exceptions for other actions, in addition to humanitarian ones, such as “other activities [than humanitarian ones] that support basic human needs”⁶⁷ or activities other than humanitarian ones, which assists in the provision of basic services, reconstruction or restoring economic activity, or other civilian purposes⁶⁸.

The fact that some Humanitarian Operators conduct primarily humanitarian operations, or their statutory provision indicate that they carry out primarily humanitarian operations, does not render any operations they carry out as humanitarian under international humanitarian law, the law of armed conflict; in the context of EU sanctions, it is the action, and not the operator, that can have a ‘humanitarian purpose’.

In certain cases, Humanitarian Operators carry out projects funded by the European Commission, Member States or international organisations. The benchmark to assess whether a project has humanitarian purposes is International Humanitarian Law, EU sanctions regimes, the case law of the Court of Justice of the European Union or the Member State courts and the applicable guidance (see point 1.3)

3.11. EU sanctions and international humanitarian law

EU restrictive measures are imposed in full conformity with the EU’s obligations under international law, including with International Humanitarian Law. They never target impartial humanitarian organisations or actions necessary to provide humanitarian aid. The EU is committed to avoiding and, where unavoidable, mitigating to the maximum extent possible any potential unintended negative impacts of EU restrictive measures on humanitarian action. Designations under individual financial sanctions are carefully calibrated and limited in number. When certain defined actions are necessary for providing humanitarian aid, exceptions might also be provided for in the relevant regulations (see Point 3.8). The Humanitarian Operators can make contact with their NCAs to ensure that humanitarian aid is channelled to those in need (See Point 3.13).

3.12. Different types of humanitarian programmes

Humanitarian aid can take different forms, such as the provision of certain goods or services, or cash-based assistance. Humanitarian exceptions and the ‘non-vetting’ principle for persons in need according to International Humanitarian Law, applies irrespective of the form and the modalities of the humanitarian project.

3.13. Persons in need (final beneficiaries)

Actions with humanitarian purposes are intended to provide assistance to persons in need or, according to international humanitarian law, to protected persons in an armed conflict.

According to international humanitarian law, persons in need are always entitled to receive humanitarian aid. Hence, they should not be vetted. This means that Humanitarian

⁶⁷ Article 3(4) of Afghanistan Sanctions.

⁶⁸ For instance, Article 9a(1)(a)(i) of the Syria sanctions regarding the authorisation for activities that are for the purpose of providing assistance to the Syrian civilian population, in particular in view of meeting humanitarian concerns, assisting in the provision of basic services, reconstruction or restoring economic activity, or other civilian purposes.

Operators can provide humanitarian aid in any form (including cash assistance) to persons in need without having to verify whether they are designated persons or not⁶⁹. Final beneficiaries are distinct from intermediaries (individuals, legal persons or bodies) that, if designated, subject to possible exceptions, must not receive funds or economic resources, directly or indirectly (see Points 3.3, 3.8. and 3.14).

Humanitarian Operators (usually NGOs or International Organisations) that are in charge of the delivery of humanitarian aid to persons in need should however be able to demonstrate that the recipients of humanitarian aid that have not been screened against EU lists of designated persons were effectively persons in need. For the sake of clarity, the provision of funds or economic resources to a designated person who qualifies as a person in need does not give rise to liability for breaching EU sanctions for those providing funds or economic resources or anyone upstream in the supply chain (e.g. banks).

➡ [COVID-19 Guidance](#), inter alia: Chapter Syria, Q. 25.

Case 1: A Humanitarian Operator does not need to verify if each person in need in a refugee camp in Syria is designated before distributing cash-based assistance. It should however be able to demonstrate to the NCA that the person is effectively a person in need, if requested to do so.

3.14. ‘No other options’ situation

Humanitarian Operators must channel humanitarian aid via actions and persons that are not subject to restrictive measures. When this is not possible, they should make use of humanitarian exceptions in the relevant EU sanctions. In accordance with International Humanitarian Law, the law of armed conflict, where no other option is available, the provision of humanitarian aid should not be prevented by EU restrictive measures. If an impediment of such kind arises, Humanitarian Operators should reach out to the NCA to seek solutions.

➡ [COVID-19 Guidance](#), inter alia: Chapter Syria, Q. 17.

4. EU SANCTIONS COMPLIANCE

4.1. Obligations on Humanitarian Operators

EU sanctions enshrine an obligation of result regarding, inter alia, financial and sectoral measures. The means through which the obligation of result is complied with are not further specified in EU Council regulation establishing EU sanctions. It is for each Humanitarian Operator to develop, implement, and routinely update its own internal procedures to that effect, bearing in mind that the Humanitarian Operator must make use of appropriate means, calibrated according to the risk of their project, the area(s) where the latter will be implemented and the persons and entities that will receive funds and economic resources, to ensure respect of the obligation of result.

⁶⁹ For instance, it is not necessary to verify if the name of persons in need receiving humanitarian aid is included in a designation list or is a member of a designated group.

The obligation of result means that the fact of having set in place certain procedures does not exclude *per se* liability in case of EU sanctions violations. In that case, the Humanitarian Operator should be able to demonstrate that it did not know and could not reasonably suspect that its actions would have violated EU sanctions (see Point 4.5). Nonetheless, implementing proper internal compliance procedures may diminish the liability of the Humanitarian Operators for accidental sanctions violations. In this regard, having strong and thorough internal procedures is of the utmost importance. Humanitarian Operators should contact as soon as possible the relevant NCA in case they become aware that their actions have resulted in a violation of EU sanctions.

➡ [Russia FAQs](#), Section A. ‘Circumvention and due diligence’; [Risk Management Guide](#).

4.2. Internal procedures to ensure compliance with EU sanctions - Due diligence

Due diligence is a term that encompasses all the procedures, verifications and checks set in place to ensure that EU sanctions are not breached. In the Q&A on due diligence for business with Iran, the Commission recommended a risk-based approach that consists of:

- risk assessment;
- multi-level due diligence; and
- ongoing monitoring.

Due diligence may in particular consist in screening the beneficiaries of funds or economic resources against lists of designated persons (see Point 3.3). It may also include adverse media investigations, which entail searches on the internet and in news sources to find evidence that a contractual counterpart or otherwise a recipient of funds or economic resources, even if not designated (thereby passing the screening against the EU sanctions lists), is actually controlled by a designated person (e.g. news in the local press that a company is controlled by a designated person). EU sanctions are often amended over time, in particular to include new persons on the designations lists. Humanitarian Operators should ensure that their internal procedures are up to date. Humanitarian Operators should apply particular caution when they work with new partners or intermediaries in the third country where humanitarian aid is delivered. They should keep appropriate records of their operations, regularly train their staff on due diligence and have proper alert systems in case of non-compliance in accordance with Member State legislation.

Humanitarian Operators are strongly encouraged to seek the support of their NCAs to ensure that their due diligence is appropriate for their operations. Some NCAs published their own due diligence guidance documents.

➡ [Russia FAQs](#), Section A. ‘Circumvention and due diligence’; [Risk Management Guide](#); [Q&A on due diligence for business with Iran](#).

4.3. Designations to be considered

All EU sanctions must be complied with by Humanitarian Operators (see Point 4.1). This said, Humanitarian Operators may wish to pay enhanced attention to certain restrictions. In relation to the prohibition to make funds or economic resources available to certain

persons and entities, Humanitarian Operators should in particular pay particular attention to the following designations:

- Business persons

Humanitarian Operators may require local suppliers, logistic services and subcontracted local staff to implement a humanitarian project. However, those subjects may be designated or owned or controlled by designated persons;

- Health sector

Humanitarian Operators may provide medical services through local hospitals that are owned by designated persons. This could be the case where EU sanctions target persons active in the healthcare sector, such as the Syria sanctions.

- Fake charities

Humanitarian Operators may provide humanitarian aid via local NGOs or other humanitarian organisations. However, certain NGOs have been designated as they were used as a cover for illegitimate activities.

- Security services, armed forces, and paramilitary groups

Interaction between Humanitarian Operators and security services, armed forces, paramilitary and police should be conducted in a way as not interfering with, or impairing, the principled delivery of humanitarian aid. Against that background, any such interaction – should it ever happen while implying transfers of funds or of economic resources – should also take into account that those entities are designated under numerous EU sanctions

- Money Business Services

Humanitarian Operators might need the service of local money providers to exchange currency or for other currency operations. However, some of those operators are designated under EU sanctions.

- Local government authorities

Some designated persons, formally or informally embedded in the state structure in countries where humanitarian aid is provided, are sometimes involved in the provision of humanitarian aid. If humanitarian aid is provided to that country, Humanitarian Operators must ensure that those designated groups will not benefit from it.

➡ [COVID-19 Guidance](#), Chapter Counter Terrorism, Q. 2; Chapter Iran, Q. 2; Chapter Nicaragua, Q. 3; Chapter Syria, Q. 20; Chapter Venezuela, Q. 2; [EU contact-point](#).

4.4. Who has to have in place internal procedures to ensure compliance with EU sanctions?

The obligation of result applies to every person or entity involved in the supply of humanitarian aid that is bound by EU sanctions. In particular, NGOs, International Organisations and donors are normally best placed to collect the information necessary for due diligence, since they are in charge either of devising the projects or of implementing the last step of the provision of the assistance to persons in need. They should therefore

put this information at the disposal of credit institutions and business suppliers involved in the humanitarian project. In particular, NGOs and donors should be aware that credit and financial institutions have record-keeping obligations under the EU's anti-money laundering framework and, lacking that information, financial transactions cannot be processed. Such record keeping obligations cover both the customer due diligence process and supporting evidence and records of transactions. Original documents (or copies admissible in judicial proceedings under national law) that are necessary to identify transactions need to be kept for a period of five years after the end of a business relationship with their customer or after the date of an occasional transaction. Member States may extend this timeframe under specific conditions.

Consequently, NGOs and other humanitarian organisations are encouraged to share all relevant information, with banks and other private actors. This may include comfort letters that a donor may have granted them, their risk assessment of the action and the mitigating measures, possible certifications they may have been awarded, and legal references of the applicable EU sanctions and humanitarian exceptions⁷⁰.

At the same time, EU sanctions should not lead to over-compliance. In particular, they should not be interpreted as requiring Humanitarian Operators, in particular NGOs, to carry out unrealistic efforts to collect evidence or prove the negative.

Business suppliers should cooperate with NGOs to provide the latter with the relevant information, in particular CN codes and other identifiers of goods made available to NGOs.

➡ [COVID-19 Guidance](#), inter alia: Chapter Syria, Q. 20.

4.5. Liability

Actions by Humanitarian Operators that are in violation of EU sanctions give rise to liability, unless the Humanitarian Operators can prove that they did not know, and had no reasonable cause to suspect, that their actions would infringe the relevant prohibitions under the relevant EU sanctions. It follows from this that Humanitarian Operators should have in place appropriate internal procedures to avoid violations of sanctions.

Case 1: A Humanitarian Operator alleges that it could not have suspected that one of its intermediaries, to whom it provided goods for persons in need, had instead given them to designated persons. However, the intermediary was known in the press/humanitarian community for having done the same in a previous instance. The NCA may therefore require further proof that the Humanitarian Operator had carried out the necessary due diligence to avoid being found responsible for violating EU sanctions.

4.6. Sanctions penalties

The power to enforce EU sanctions falls within the remit of the Member States. In principle, an NCA or the judiciary are in charge of verifying if EU sanctions have been

⁷⁰ In particular, Humanitarian Operators could include a reference to the applicable humanitarian exception in the box of the wire transfer for comments or reason for the transfer.

violated and impose the administrative or criminal penalty on the responsible. In general, penalties are calibrated according to the degree of responsibility.

➡ [EU contact point.](#)

4.7. Supplying relevant information

Humanitarian Operators are required by EU sanctions to supply the NCA with any information which would facilitate compliance with EU sanctions, transmit this information also to the Commission⁷¹, and cooperate with the NCA in the possible follow-ups⁷². Such information may pertain to information on attempts by other persons to circumvent EU sanctions, ownership or control over a non-designated entity by a designated person and any other elements which may be useful for NCA’s assessment. Some Member States have laid down specific reporting procedures. Further details can be provided by the NCA.

➡ [EU contact point.](#)

CHECK LIST (NON-EXHAUSTIVE)	
1	Are the items (CN codes/commodity description) you are bringing to third countries strictly necessary for persons in need (e.g. water pumps) or to support your operation (e.g. telecommunication items, protective equipment, vehicles) subject to sectoral restrictions, such as export or use ban?
2	Will you need to purchase or use items that are subject to restrictions in the country where you will provide humanitarian aid (e.g. fuel for cars and trucks)?
3	Have you verified, also on social media and by collecting information in other ways, that local suppliers are not designated or owned/controlled by designated persons?
4	Have you verified that the third-country NGOs you are going to contract for the implementation of the humanitarian program is not designated or owned/controlled by designated persons?
5	Are you renting spaces, vehicles or other properties from designated persons, or from a company or entity owned or controlled by one?
6	Do you plan to provide funds or goods to designated persons, which are then supposed to provide them to persons in need?
7	Is your security ensured by a designated entity or group or by an entity owned or controlled by it, and have you paid for it?

⁷¹ For instance, to the EU contact point or relex-sanctions@ec.europa.eu.

⁷² See, e.g., Article 9(1) of Global human rights sanctions.

8	Are you providing training, funds or other economic resources to designated persons, for instance when meeting them?
9	Have you taken appropriate mitigation measures to ensure that your funds or items will not be seized, including by force, by designated persons, especially paramilitary groups, police or armed forces?
10	Are the restrictions on banking services under EU sanctions relevant in the country where you plan to provide humanitarian aid?
11	Will you have to pay taxes in the third country where you will provide humanitarian aid and where there are designated officials in government functions?
12	Will you make funds or economic resources available to the administration in the third country where you will provide humanitarian aid and where there are designated officials in government functions?
13	Have you set up proper internal procedures, including for tracking and promptly reacting to breaches of EU sanctions?

CERTIFIED COPY
 For the Secretary-General

Martine DEPREZ
 Director
Decision-making & Collegiality
 EUROPEAN COMMISSION

