

President Trump Takes Aim at the International Criminal Court with New Sanctions Order

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POSTED IN [ECONOMIC SANCTIONS](#), [EXECUTIVE ORDER](#), [OFAC](#)

On June 11, 2020, the President issued an [Executive Order](#) (the “Order”), “Blocking Property of Certain Persons Associated with the International Criminal Court,” which authorizes the Secretary of State to impose blocking sanctions on certain persons involved in investigations by the International Criminal Court (“ICC”) of U.S. and allied military personnel and government officials, as well as visa restrictions on such persons and their immediate family members. The Order appears to respond to the March 5, 2020 [decision](#) of the ICC’s Appeals Chamber to permit an investigation into potential war crimes by U.S. military and intelligence personnel in Afghanistan, notwithstanding the fact that the United States is not party to the treaty establishing the ICC and has not consented to the ICC’s jurisdiction.

The Order has no immediate legal consequences, but could potentially have a chilling effect on the ICC itself, as well as those providing services to the ICC. It authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate any foreign person determined:

- to have directly engaged in any effort by the ICC to investigate, arrest, detain, or prosecute any United States personnel¹ without the consent of the United States;
- to have directly engaged in any effort by the ICC to investigate, arrest, detain, or prosecute any personnel of a country that is an ally of the United States² without the consent of that country’s government;

¹ The term “United States personnel” means any current or former members of the Armed Forces of the United States, any current or former elected or appointed official of the United States Government, and any other person currently or formerly employed by or working on behalf of the United States Government.

² The term “personnel of a country that is an ally of the United States” means any current or former military personnel, current or former elected or appointed official, or other person currently or formerly employed by or working on behalf of a government of a North Atlantic Treaty Organization (“NATO”) member country or a major non-NATO ally.

- to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the above activities or any person sanctioned pursuant to the Order; and
- to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person sanctioned pursuant to the Order.

The property and interests in property of designated persons subject to U.S. jurisdiction will be blocked, and U.S. persons will generally be prohibited from engaging in transactions with them. As noted above, designated persons, as well as their immediate family members (i.e., spouses or children) will also be subject a bar from entry into the United States for immigrant or non-immigrant travel, subject to limited exceptions.

The threatened use of economic sanctions to target an international tribunal charged with investigating and prosecuting genocide, war crimes, crimes against humanity and the crime of aggression – premised on the idea that the actions of that tribunal constitute an unusual and extraordinary threat to U.S. national security and foreign policy – is unprecedented. It stands in stark tension with the long practice of using U.S. sanctions to target persons involved in human rights abuses, including in some [cases](#) based on information developed through the ICC's work, as well as with the Trump Administration's own messaging highlighting human rights concerns to justify sanctions against Iran, Venezuela, and Cuba.