

Sanctions round-up - May 2023

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At a glance

- In March 2023 the Office of Financial Sanctions Implementation (OFSI) issued [new guidance on monetary penalties](#) for breaches of financial sanctions. The guidance has been updated following the [Economic Crime \(Transparency and Enforcement\) Act 2022](#) which permits OFSI to impose financial penalties on companies or individuals on the basis of strict liability. The guidance has also been updated to include that where a breach involves an incorrect assessment of ownership and control, OFSI will consider the appropriateness of the due diligence conducted in determining the seriousness of the breach.
- The [Russia \(Sanctions\) \(EU Exit\) \(Amendment\) Regulations 2023](#) came into force on 21 April 2023 (other than regulation 3 which comes into force in September).
- On 18 May 2023, Prime Minister Rishi Sunak, announced new sanctions at this year's G7 Summit in Japan on Russian diamonds, metals (Russia-origin copper, aluminium and nickel) and the Russian military-industrial complex. In 2021, Russia's diamond industry was worth \$4 billion in exports. Alongside these new sanctions, the Government has also begun preparations for sanctions on an additional 86 people and companies involved in energy, metals and shipping from Putin's military-industrial complex. To date the UK has sanctioned over 1,500 individuals and entities, frozen more than £18 billion of assets in the UK and over £20 billion from the UK-Russia goods trade. Legislation for the diamond and metals ban is planned to come into force later this year.

The headlines

On 14 March 2023 the High Court handed down judgment in [LLC Synesis v Secretary of State for Foreign, Commonwealth and Development Affairs \[2023\] EWHC 541 \(Admin\)](#). This is the first time the High Court has been asked to consider a failed review of a sanctions designation under section 38 of the [Sanctions and Anti-Money Laundering Act 2018](#) (SAML).

LLC Synesis is a Belarusian technology company. In December 2020 the company was designated, originally under the EU sanctions regime, but then under the Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 ('the Regulations') following the end of the transition period by the Secretary of State for Foreign, Commonwealth and Development Affairs. The claimant sought a ministerial review of the designation which was refused, which led to this appeal to the High Court under section 38(4) SAML.

The key issues in the case were:

1. whether the Secretary of State had 'reasonable grounds to suspect' that LLC Synesis was an 'involved person' for the purposes of the Regulations;
2. the correct legal test to be applied when a judicial review of a designation is brought under section 38(4) SAML.

The court found for the defendant on both grounds.

In relation to (1) the court found that 'reasonable grounds to suspect' does not import a standard of proof, what is required is that the decision maker assesses or evaluates the available information and material, drawing inferences from all the circumstances. In doing so the decision maker is not limited to evidence that would be permitted in a court of law, for example, they are entitled to take into account hearsay or intelligence.

Regarding (2), the court distinguished the standard required by the regulations (reasonable grounds to suspect) from the standard of review. Mr Justice Jay found that the court's role is not to stand in the shoes of the decision maker, but to assess whether the decision was irrational or based on no evidence. The relevant standard for irrationality is therefore Wednesbury unreasonableness.

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