

Israel – Hamas 2024 Symposium – Targeted Sanctions against West Bank Settlers

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by [Larissa van den Herik](#) | May 1, 2024



Before and after 7 October, several States, most notably the United States, the United Kingdom, as well as the European Union, imposed multiple rounds of sanctions against Hamas and/or Hamas leaders. Only more recently, sanctions have also been imposed against Israeli extremists, but in the context of the West Bank. These latter sanctions react to the escalating violence by extremist settlers, which has been ongoing for a long time as captured, for instance, in the documentary [No Other Land](#).

This post focuses on the targeted sanctions against West Bank settlers. It argues that, while those sanctions have been presented as accountability tools, they are better regarded as political signposts. Full accountability requires a more comprehensive response by States including support for international courts.

Sanctioning Israeli Extremists

On 1 February 2024, U.S. President Biden adopted Executive Order 14115. This offers a legal basis to impose sanctions on persons who undermine peace, security, and stability in the West Bank. So far, eight individuals and four entities have been subjected to an asset freeze and travel ban pursuant to this order. The order followed the Visa Restriction Policy of 5 December 2023 against extremist settlers involved in acts of violence against civilians in the West Bank. Those visa restrictions could also affect the settlers' immediate family members.

While Canada has been slow to follow suit, the UK imposed sanctions on 12 February 2024, listing four extremist Israeli settlers who had attacked Palestinians on the occupied West Bank. In a similar spirit, the European Union listed four settlers and two radical Jewish groups on 19 April 2024. The legal basis for the EU listings is the EU Global Human Rights Sanctions regime, which was created in 2020 as the EU version of the U.S. Global Magnitsky Sanctions Program. The respective U.S., UK and EU lists overlap to a large extent, but not fully.

In addition to those targeted sanctions, U.S. Secretary of State Blinken also announced that the U.S. State Department was considering taking measures against the Ultra-Orthodox Netzah Yehuda Israeli Defense Forces (IDF) battalion based on the 1997 Leahy law. This law prohibits the U.S. government from funding and assisting units of foreign security or military forces where there is credible information that implicates the unit in the commission of gross human rights violations, such as torture, extrajudicial killing, enforced disappearance, and rape, if the foreign State to which the unit belongs is not itself taking effective steps to bring those responsible to justice. If adopted, those measures pursuant to the Leahy law would have close synergies with targeted sanctions, in terms of the underlying rationale for the measures and aims. However, they are also different, as the Leahy measures would not involve freezing of assets or a travel ban.

Targeted Sanctions as Foreign Policy and Accountability Tools

In Executive Order 14115, the sanctions were a response to the intolerable level of extremist settler violence which undermined peace and stability in the West Bank and the region, thereby undermining the foreign policy objectives of the United States. The U.S. Department of State announced that the sanctions aimed to promote accountability for certain harmful activities. Similarly, UK Foreign Secretary Lord Cameron indicated that sanctions against Israeli settlers were taken as part of a commitment to “hold to account those who undermine prospects for peace.” EU Council Decision 2024/1175, which imposed the EU sanctions, also made reference to the need for accountability in its para. 3:

In his statement of 16 December 2023, the High Representative stressed the Union's concern about increased violence against Palestinians by extremist settlers in the occupied West Bank, which has reached unprecedented levels. The Union has continued to reiterate its firm condemnation of settler violence and called for accountability. The Union has also

called on Israel to prevent settler violence and ensure that the perpetrators of crimes are held accountable. Since the Hamas terrorist attacks against Israel on 7 October 2023, settler violence has increased drastically.

Pursuant to Executive Order 14115, individuals can be listed if they are responsible for or complicit in actions that threaten the peace, security, or stability of the West Bank, or for planning, ordering, otherwise directing, or participating in any of the following actions affecting the West Bank: (1) an act of violence or threat of violence targeting civilians; (2) efforts to place civilians in reasonable fear of violence with the purpose or effect of necessitating a change of residence to avoid such violence; (3) property destruction; or (4) seizure or dispossession of property by private actors. Also, leaders of (governmental) entities engaged in such activities can be sanctioned as well as persons materially supporting or financially assisting these acts. The EU human rights regime is more general in nature and refers to international crimes and serious human rights violations and abuses as listing criteria.

An example of specific reasons for listing a settler offered by the United States reads as follows:

[He] led a group of settlers who engaged in actions creating an atmosphere of fear in the West Bank. He regularly led groups of settlers from the Meitarim Farm outpost that assaulted Palestinian and Bedouin civilians, threatened them with additional violence if they did not leave their homes, burned their fields, and destroyed their property. He and other settlers at Meitarim Farm have repeatedly attacked multiple communities within the West Bank.

The EU listings are considerably more detailed, as exemplified by this text:

XX is an Israeli settler activist in the West Bank and known as being affiliated with the Hilltop Youth, a radical youth group that engages in violent acts against Palestinians and their villages in the West Bank. The Hilltop Youth engages in settler violence through so-called “price tag attacks”. This settler violence, including physical and psychosocial harassment, beatings, murder and demolition of property, against Palestinians is of a systematic nature. XX encourages such acts and participates in them. He regularly incites violence against Palestinians in the West Bank including by distributing messages such as to “wipe out” a Palestinian village. He personally harassed a Palestinian family, using intimidating and threatening language to impede their freedom of movement on their own land and is involved in the destruction of property of Palestinians in the West Bank. XX was part of a group of armed settlers that on 4 August 2023 advanced from the direction of the illegal outpost of Oz Zion to the Palestinian village of Burqa near Ramallah. The settlers fired bullets at the Palestinians, which led to the death of the 19-year old Palestinian Qusai Jammal Mi'tan and wounded several other Palestinians. Therefore, XX is responsible for serious human rights violations or abuses, including torture and other cruel, inhuman or degrading treatment or punishment, as well as violations or abuses of the right to property and the right to private

and family life of Palestinians in the West Bank and for supporting and encouraging such acts, and is responsible for the advocacy of national, racial or religious hatred which constitutes incitement to discrimination, hostility or violence. Those violations or abuses are also of serious concern with regard to the objectives of the common foreign and security policy as set out in Article 21 of the Treaty on European Union.

A first question that arises when reading these statements of reasons is: Why only now? A second question is: Why only targeted sanctions, and why is there no genuine effort towards an (international) criminal law response, given the nature of the acts involved? A third question is: why only this limited number of individuals and none of them formally affiliated with the government while other sanctions regimes do list state officials?

The U.S. and EU statements of reason describe similar facts. Yet, when taken in comparison, one cannot but notice the enhanced level of detail that accompanies the EU listing as opposed to the U.S. listing. This can be explained by the more intense judicial scrutiny of EU listings that the European Court of Justice (ECJ) undertakes. The ECJ's full procedural review stands in some contrast to the more deferential U.S. courts. From a rule of law perspective, obviously, a meaningful role for courts is to be welcomed, particularly so if targeted sanctions are presented as accountability tools.

The Limits of Targeted Sanctions and the Need for Criminal Prosecutions

The first listings that have now been made, and specifically also the statement of reasons, expose the violence that is currently ongoing in the West Bank. Although they are presented as accountability measures, and despite the references to legal norms and categories of responsibility, those targeted sanctions are by-and-large political measures taken as part of a foreign policy. As such, they are expressions of political condemnation, and the effects of the measures mostly play out in the political realm. It remains to be seen whether there will be next rounds of sanctions, and whether such potential new rounds will target persons formally affiliated with the government alleged to be involved in or responsible for the violence, which could lay bare underlying structures.

If targeted sanctions are indeed conceptualized as accountability measures, they require a more full-fledged follow-up that includes the establishment of responsibility for violations of law by courts. Such measures towards more legal conceptions of accountability should in any event take the form of criminal prosecutions given the nature of the acts involved. Such criminal prosecutions do not necessarily have to occur in the States that have adopted the sanctions. Yet, particularly since the sanctions have been presented as accountability measures, it is imperative that those States that have now imposed the sanctions also expressly support, or at the very least do not undermine, other genuine accountability measures regarding the situation in Israel/Palestine, particularly those that may come from the International Criminal Court.

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