

Cheat sheet: Differences and commonalities between sanctions and counterterrorism measures

TOOL 2

Although their impact and the risk they pose to principled humanitarian action can be similar and frequently overlap, sanctions and counterterrorism measures are different legal instruments. Understanding their nature and the differences between sanctions and counterterrorism measures from a legal perspective can help humanitarians identify, assess and mitigate risks more precisely and advocate appropriately for policy solutions.

This tool intends to summarise in general how sanctions and counterterrorism measures differ, but also what they have in common. For a more detailed and nuanced analysis, refer to [Section 3](#) of the toolkit.

Sanctions	Commonalities between sanctions and counterterrorism measures	Counterterrorism measures
What is the objective of the measure?		
<p>Objectives vary greatly: e.g. ending conflicts, promoting human rights, restoring democracy.</p> <p>Some sanctions are imposed in response to a situation in a specific country: e.g. United States (US) sanctions on Syria. Others are 'horizontal' or 'thematic' and apply across different contexts – e.g.: Weapons of Mass Destruction.</p>	<p>Counterterrorism sanctions aim to prevent funds and assets from going to terrorist groups or individuals.</p> <p>For example: United Nations (UN) sanctions on ISIL, Al Qaeda and affiliates (UN Security Council resolution 1267).</p>	<p>Stemming the flow of funds and other forms of support to terrorist groups and individuals or for the commission of acts of terrorism.</p>
Who adopts the measure?		
<p>International and regional organisations</p> <p>Individual countries (executive power)</p>	<p>International organisations such as the UN</p> <p>Regional organisations such as the European Union (EU)</p> <p>Individual countries</p>	<p>In some contexts, local government bodies (e.g. governors, mayors) adopt counterterrorism measures. In areas under military rule, military authorities may also adopt counterterrorism measures.</p>
Who implements the measure?		
<p>Financial sanctions are typically implemented by departments within Treasury Departments or Ministries of Foreign Affairs– e.g. Office of Foreign Assets Control (OFAC) in the US or Office of Financial Sanctions Implementation (OFSI) in the United Kingdom (UK).</p> <p>Commercial sanctions or trade bans are typically overseen by Trade or Commerce departments – e.g. US Bureau of Industry and Security (BIS).</p>	<p>Law enforcement authorities may prosecute individuals and/or organisations breaching sanctions measures or counterterrorism criminal laws.</p>	<p>Ministry of Justice, Ministry of Interior, police, military.</p>

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Where is the measure found?		
Sanctions lists (see for example EU Sanctions Map or US Sanctions programmes)	UNSC resolutions Regional or domestic laws (e.g. EU Directives) Clauses in donor contracts	States penal / criminal codes. Other counterterrorism measures can also be found in military orders, local directives
What does the measure prohibit?		
Import / export restrictions such as the prohibition on imports of goods, 'dual use' items, or the prohibition to purchase certain goods, e.g. Syrian fuel. Travel bans. Embargos on arms or military equipment. Prohibition to provide resources or support' to sanctioned entities.	Prohibition to provide support or resources to terrorist groups or individuals, whether designated under sanctions or proscribed under counterterrorism measures.	Prohibitions vary greatly. Criminal counterterrorism measures typically prohibit carrying out acts of terrorism but can also include, for example, a prohibition to travel for the purpose of terrorism training and apology for terrorism. Other counterterrorism measures may be administrative or military in nature and can include local curfews, bans on the use of cash, the use of certain vehicles, bans on certain economic activities, such as market or trade or the imposition of military or no-go zones.
What are the penalties when the rule is not respected?		
	Administrative penalties, such as disallowances, or fines which can be significant. Civil liabilities are less frequent but exist in some jurisdictions. Criminal liabilities may also exist in some countries (for example EU countries).	Non-compliance with criminal counterterrorism laws could lead to prosecution.
Who is targeted by the measures?		
Entities targeted by sanctions are typically called 'designated' individuals or groups. They can include members of governments such as ministers, companies, or owners/board members of businesses.	ISIS Al Qaeda affiliated groups Non-state armed groups Other terrorist groups	Groups proscribed by the relevant State, e.g. Foreign Terrorist Organisations (FTOs) designated by the US. All authors of terrorist acts.
Who needs to comply with the measure?		
	Any legal or natural person under the jurisdiction of the issuing state or regional organisation (see Tool 1)	
How is humanitarian action protected from the unintended effects of the measure?		
Humanitarian exemptions in UN sanctions or autonomous sanctions. E.g. UN Resolution 2664, UN Resolution 2615 on Afghanistan, OFAC General Licenses, humanitarian exemptions in EU sanctions Import licences or derogations.	Obligations for states to respect international laws and consider the impact on humanitarian activities while designing or implementing sanctions and counterterrorism measures.	Humanitarian safeguards in criminal laws. Strict and precise definitions of offences contribute to protecting humanitarian action. Prosecutorial guidance for law enforcement authorities.