The Clock Is Ticking

The EU Can Still Shield the ICC From US Sanctions

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After sanctioning the ICC Prosecutor, its Deputy Prosecutors and several judges, including its President, the US has now issued sanctions on the International Criminal Court itself. On 9 October 2026, the same day on which the Norwegian Nobel Committee awarded the Peace Prize to Navi Pillay, a former judge of the ICC, the US added the Court to its sanctions list. Moreover, the European banks, insurers and software providers that serve the Court now risk being designated in turn, and the licence that covers ordinary dealings with the Court expires on 7 April 2027. The EU has an instrument to respond, the Blocking Statute, but it has not extended it to the US sanctions on the Court. Extending it would expose any operator that cuts off the Court to having to justify that decision before a European court. European governments have condemned the measure, but that is not enough. The Commission should promptly activate the Blocking Statute before the licence expires.

From Judges to the Institution

On 9 October 2026, the US Treasury's Office of Foreign Assets Control (OFAC) added the International Criminal Court to the Specially Designated Nationals and Blocked Persons List, under Executive Order 14203 of 6 February 2025.

For twenty months, Washington had targeted individuals. It now targets the institution's means of operating: its accounts, contracts and suppliers. The Secretary of State, Marco Rubio, announced that the United States would continue to dismantle the Court until Americans were no longer exposed to it.

The escalation began in February 2025, when the US sanctioned the ICC's Prosecutor. Several judges followed. The French judge Nicolas Guillou was put on the sanction list on 20 August 2025, then the Deputy Prosecutors and, in August 2026, the President of the Court, Judge Tomoko Akane.

The legal basis is the International Emergency Economic Powers Act and EO 14203, implemented by the International Criminal Court-Related Sanctions Regulations (31 CFR part 528). All property and interests in property of the Court within US jurisdiction are blocked, and US persons, wherever located, may not deal with it without authorisation. Section 1(a)(ii) of the order further allows the designation of any foreign person who has materially assisted, sponsored or provided financial, material or technological support to a blocked person, or acted on its behalf.

The target of the sanctions is a treaty-based international organisation, but that is no obstacle under US law. The United States has never ratified the Rome Statute. Article 48 of the Statute and the headquarters agreement with the Netherlands bind only the States that consented to them.

OFAC has done this before. In April 2023, it designated the International Investment Bank, an intergovernmental institution founded in 1970 and then headquartered in Budapest. Within days Hungary announced its withdrawal and the bank left the European Union. The difference is one of scale: the Court has 125 States Parties, including all twenty-seven Member States of the Union, and sits on EU territory.

Four General Licences and a Six-Month Clock

The US has effectively put a six-month clock on the Court's ordinary finances, thereby creating leverage over the Court and pressing the States Parties to address US concerns. It did so with four general licences (13, 14, 15 and 16), which create exceptions to the sanctions. The main one, General License 13, ends on 7 April 2027.

General License 13 concerns the Court's finances. It allows ordinary dealings with the Court, such as contributions from States Parties, staff salaries, rent and supplier invoices, but only to keep the Court running or to wind it down, and only until 7 April 2027. It does not cover anyone who is separately sanctioned: a staff member can be paid, while a judge designated by name stays blocked.

The other three are narrower. General License 14 keeps telecommunications and business software available, with no end date. General License 15 allows pensions to be paid. General License 16 lets the custody of nine named detainees, among them Rodrigo Duterte, continue.

Unless OFAC renews General License 13, contracts with the Court will have to be unwound in spring 2027, and OFAC can amend or revoke any licence at any time. The State Department says the licences give States Parties time to show progress on US concerns. The deadline is leverage over the Court and over the States that fund it.

The Court had prepared, at least in part. According to William Schabas, it has moved part of its US software to European providers and ended its relationship with the insurer AXA, which operates in the United States.

Where European Operators Stand

Neither the United Nations nor the European Union has adopted any measure against the Court. In French law, the asset-freezing obligations in Articles L. 562-1 et seq. of the Monetary and Financial Code apply only to national, EU and UN measures, and the position is the same across Member States. The US designation creates, by itself, no obligation for an institution established in Europe.

Exposure arises first from a US nexus: dollar clearing, US persons among staff or in the decision chain, a US parent or branch, or US technology providers. A European bank that initiates a dollar payment cleared in the United States may be charged with causing a US person to violate the prohibitions, conduct that IEEPA and the order expressly cover. For those flows, every payment released will have to be traced to a licence and its conditions as they stood on the day of the transaction.

Flows with no US nexus fall outside the prohibitions but not outside the designation power. Under section 1(a)(ii)(B) of EO 14203, the Secretary of State may designate any foreign person who has provided financial, material or technological support, or goods or services, to a blocked person. The Court is now one. The bank holding its euro accounts, the insurer covering its staff and the provider hosting its data all fall within the terms of the provision. Section 1(a)(ii)(C), which targets anyone acting on behalf of a blocked person, reaches in law every member of the Court's staff.

Secondary designation is discretionary and may come without notice. The 9 October licences lift the prohibitions binding US persons; they say nothing on whether a non-US operator acting within their scope is safe from designation, and no FAQ addressing the point accompanied the action. Once General License 13 expires, support for the Court's ordinary functioning will lose even that indirect cover.

What European States Parties Already Owe the Court

Under Article 48(1) of the Rome Statute, the Court enjoys in the territory of each State Party the privileges and immunities necessary for the fulfilment of its purposes. The Agreement on the Privileges and Immunities of the Court gives that principle financial content. Article 6(3) exempts the Court's property, funds and assets, to the extent necessary for its functions, from restrictions, regulations, controls or moratoria of any nature. Article 10 frees the Court from financial controls and moratoriums, and allows it to hold accounts in any currency and to transfer its funds freely.

These obligations bind the States that ratified the Agreement, not banks. A State Party commits no breach when a private bank closes the Court's euro account on its own initiative. But the Agreement protects a result: the Court's ability to hold and move funds in the territory of each State Party. When that ability is withdrawn under foreign coercion, a State that holds legal instruments to prevent it and declines

to use them accepts an outcome the Agreement was drafted to exclude.

Under Articles 115 and 117 of the Statute, the Court is funded mainly by assessed contributions from States Parties. A payment from a European treasury to the Court's euro account at a European bank requires no US nexus and no licence. It nonetheless exposes the receiving bank to the secondary designation power described above. Funding the Court therefore requires protecting the bank that receives the contributions.

The EU Instruments Left Unused

EU law already constrains spontaneous alignment with US lists. In *Jenec* (C-81/24, 11 June 2026), the Court of Justice held, on a reference from a Slovenian court, that listing by OFAC does not in itself justify refusing a consumer a basic payment account under Directive 2014/92: it is one factor in an individualised and documented assessment of money-laundering and terrorist-financing risk. The ruling is confined to consumers and basic accounts, but its reasoning travels: a foreign administrative listing does not replace the assessment that EU law requires.

Over-compliance is already documented. Testifying before a French parliamentary inquiry on 8 April 2026, Judge Guillou described insurers established in France that had stopped reimbursing medical care delivered in Europe, with no dollar and no US party involved. Extended to the institution, the same precaution can reach every one of its providers.

The Blocking Statute (Regulation 2271/96) has never been extended to the ICC sanctions. Doing so requires no new legislation: the Commission amends the annex by delegated act, as it did for the Iran sanctions with Delegated Regulation 2018/1100, adopted on 6 June 2018 and in force on 7 August. Once EO 14203 is listed, Article 5 prohibits EU operators from complying with it, unless authorised by the Commission, and Article 6 allows recovery of damages caused by its application.

The Court of Justice has given that prohibition practical effect. In *Bank Melli Iran* (C-124/20, 21 December 2021), the Grand Chamber held that Article 5 applies even in the absence of any order from US authorities. An operator may terminate a contract without giving reasons, but where the evidence suggests it did so to comply with a listed law, it bears the burden of proving otherwise. A bank that closed the Court's account after an extension of the annex would have to justify that decision before a European court, which would weigh its exposure to US penalties under the principle of proportionality. The Blocking Statute cannot remove American leverage; it ends the assumption that complying with US sanctions is a legally risk-free choice.

Governments and parliamentarians have begun to point to the Blocking Statute. On 9 October, the French Ministry for Europe and Foreign Affairs condemned the designation and said France would use the Blocking Statute if necessary. In September, the Netherlands, as host State, asked the Commission to prepare it, while describing it as a last resort. On 9 October, Belgium's Foreign Minister, Maxime Prévot, also called for its activation. On 13 October, 58 Members of the European Parliament, from the EPP, S&D, Renew Europe and the Greens/EFA, wrote to Ursula von der Leyen asking the Commission to activate it. On 22 October, the European Parliament awarded the Court its 2026 Sakharov Prize, and Ursula von der Leyen welcomed the award, saying that the Court "must be free to pursue its mission, independently, and without pressure or intimidation." The Blocking Statute's reach would be partial: designed to protect European operators, it would cover the Court's providers and staff, not the international organisation itself.

The Anti-Coercion Instrument (Regulation 2023/2675) has not been triggered either, despite repeated calls, including a resolution of the French Conseil national des barreaux in April 2026. It would require the Council to find coercion by qualified majority before any response measure. Both instruments address the operators who are, in practice, the Court's point of failure.

Until 7 April 2027, the Court will run on fallback providers and on a licence that OFAC may amend or revoke at any time, while its Trust Fund for Victims is already concerned about the payment of reparations.

All twenty-seven Member States are parties to the Rome Statute and the Court sits on Union territory. The Union holds two instruments built against extraterritorial measures and has not turned either against these sanctions. If it does not do so, the compliance departments of banks, insurers and software vendors will settle the conflict one institution at a time, and they will settle it in favour of US law, as Judge Guillou's insurers already have. A delegated act extending the Blocking Statute can and should be adopted and in force before the licence expires.

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