**U.S. Global Magnitsky Sanctions**

The best-known of the United States government’s targeted sanctions tools to address human rights abuse and corruption is the Global Magnitsky (GloMag) sanctions program.

Authorized in 2016 by the [Global Magnitsky Human Rights Accountability Act](https://home.treasury.gov/system/files/126/glomag_pl_114-328.pdf) (GMA), the GloMag sanctions program targets perpetrators of corruption and serious human rights abuses. Although inspired by and named for a Russian whistleblower, the program has worldwide applicability. Its flexible criteria and its mandate for consultation with civil society make it an attractive tool for NGOs recommending sanctions.

The USG also maintains dozens of country-specific and other thematic sanctions programs, many of which include human rights and anti-corruption bases. The USG generally defaults to using country-specific programs where applicable. (*See Parts 4-25 of this series*.)

Since 2017, the network coordinated by HRF has submitted over 450 recommendations to the U.S. government (USG), impacting roughly 35-40% of all GloMag designations.

**History**

The forerunner of the GMA, the Magnitsky Act was passed in 2012 in response to the death of Russian tax lawyer Sergei Magnitsky, who had uncovered a major tax fraud conspiracy. The Magnitsky Act authorized sanctions against Russians involved in Magnitsky’s detention and death, as well against those involved in human rights abuses against other activists. (*See Part 14 of this series*).

The Global Magnitsky Act was passed in 2016 as part of that year’s National Defense Authorization Act, with little media attention. The GMA was first implemented in 2017 by [E.O. 13818](https://www.govinfo.gov/content/pkg/FR-2017-12-26/pdf/2017-27925.pdf), a major development which expanded the scope of the GMA to apply to a broader range of human rights abuses and acts of corruption. After issuing E.O. 13818, the Trump administration used the GMA relatively aggressively to target human rights abusers and corrupt actors, especially in jurisdictions without country-specific sanctions programs.

Legal Criteria

Global Magnitsky sanctions can be imposed on foreign individuals and entities anywhere in the world that are responsible for or involved in:

* **Serious human rights abuse**.
  + The term “serious human rights abuse” is not codified.[[1]](#footnote-1) In practice though, the USG has applied GloMag to a specific class of human rights abuses: those involving physical violence against the bodies of victims.
  + The most common cases to which GloMag has been applied are extrajudicial killings, torture, and forced disappearances. “Serious human rights abuses” could also include unlawful detention, gender-based violence, human trafficking, and more. A single incident is sufficient to authorize sanctions.
  + Despite past interpretation, this is an evolving standard.
* **Corruption**.[[2]](#footnote-2)
  + The definition of corruption is broad but requires that the corruption be financial in nature and involve a nexus to government actors or entities. It includes corrupt acts as diverse as misappropriation of state assets, bribery, corruption in government procurement, and money laundering.
  + Importantly, it also includes transferring the proceeds of corrupt activities.

The GloMag program has several additional features:

* Derivative sanctions can be imposed on leaders or owners of entities that have engaged in such acts and on those who assist perpetrators.
* Generally, the USG imposes sanctions only in response to abuses occuring in the last 5 years.

Process and Implementation

**Penalties:** These publicly-announced sanctions impose an asset freeze and a bar on entering the U.S. on designated individuals. Accordingly, the designated person generally cannot obtain or keep a U.S. visa; they cannot access U.S.-based funds or property; and persons under U.S. jurisdiction cannot transact with them.[[3]](#footnote-3)

**Implementing agencies:** The Secretary of the Treasury can impose these sanctions, in consultation with the Secretary of State and the Attorney General. Doing so is purely discretionary.

**Congressional oversight:** Congressional requests can compel only consideration and reporting of a particular case, not designation.[[4]](#footnote-4)

* Upon receiving a request from the chair and ranking member of certain committees, the USG must within 120 days determine whether a specific person has engaged in a sanctionable activity and report whether the President intends to impose sanctions.
* The USG must also submit annual reports to Congress detailing and justifying new and terminated sanctions under the program, as well as efforts in multilateral implementation.[[5]](#footnote-5)

**NGO involvement:** Unusually, the USG is required by law to involve NGOs in implementing this program. In determining whether to impose these sanctions, the President must consider "credible information obtained by… nongovernmental organizations that monitor violations of human rights.”

**Patterns of Use**

**Numbers & Type of Abuse:** To date, 319 individuals and entities, from 35 countries, have been designated under the GLOMAG program.[[6]](#footnote-6)

* 203 designations have been imposed for corruption only.
* 101 designations have been imposed for human rights abuses only.
* 15 designations have been imposed for both.

U.S. officials have said they are committed to rough parity in the two types of sanctions. The current disparity between the number of corruption- and human rights abuses-related designations reflects that corruption cases tend to entail a greater number of derivative sanctions to target facilitative networks. Of all corruption-related designations, only 37 are primary designations, whereas 80 of the human rights abuses-related designations are primary.

**Sanctions by region:** The USG has imposed Global Magnitsky sanctions against persons in most world regions, though it has often used country-specific sanctions programs instead of GloMag where such authorities exist.

**Sanctions pace and timing:** The USG has consistently used the GloMag program, imposing 45 or more sanctions every year since 2017. Typically, the USG announces a major batch of designations on or around International Anti-Corruption Day and Human Rights Day (December 9 and 10, respectively).

**Perpetrators:** The USG has refrained thus far from designating actively serving heads of state, although the USG has done so under country-specific programs. The USG has designated also former heads of state under GloMag.[[7]](#footnote-7) The USG regularly designates senior officials, and has imposed GloMag sanctions on both:

* state and non-state actors.
* human rights abusers whose actions harm only one victim, in addition to those whose actions harm large victim classes.

Examples

Human Rights Abuses

**Gambia:** In December 2017, the USG designated 14 persons for human rights abuses in Gambia. [Yahya Jammeh](https://home.treasury.gov/news/press-releases/sm0243), the former president, was designated for killing and torturing political opponents and journalists. Twelve Gambian entities he owns or controls were subject to derivative sanctions. [Yankuba Badjie](https://home.treasury.gov/news/press-releases/sm0243), the Director General of the National Intelligence Agency, was also designated for his involvement in the detention and murder of Solo Sandeng, a member of the political opposition, as well as for abuses and mistreatment of detainees. In July 2020, the Department of Justice [announced](https://www.justice.gov/opa/pr/department-justice-seeks-recovery-approximately-35-million-corruption-proceeds-linked-ex) a civil forfeiture action against Jammeh’s Maryland mansion. This is the first instance where the USG has used GloMag as part of a “freeze then seize” strategy against perpetrators with assets in the United States.

**Saudi Arabia:** In 2018, the Senate Foreign Relations Committee [invoked](https://www.foreign.senate.gov/press/chair/release/corker-menendez-graham-leahy-letter-triggers-global-magnitsky-investigation-into-disappearance-of-jamal-khashoggi) Section 1263(d) of the GMA, compelling the President to present findings and a determination on potentially-sanctionable activity. Subsequently, the USG designated [18 Saudi government officials](https://home.treasury.gov/news/press-releases/sm547) and the Saudi government [“Tiger Squad”](https://home.treasury.gov/news/press-releases/jy0038) for their involvement in the killing of Saudi dissident Jamal Khashoggi in the Saudi consulate in Istanbul. Crown Prince Mohammed bin Salman, who the [CIA determined was responsible](https://www.nytimes.com/interactive/2021/02/26/us/report-jamal-khashoggi-killing.html) for the assassination, was not designated. Nevertheless, the case highlights the USG’s use of GloMag to sanction persons involved in retaliating against journalists. (See also [Julio Antonio Juarez Ramirez](https://home.treasury.gov/news/press-releases/sm0243) and [Marian Kocner](https://home.treasury.gov/news/press-releases/sm852)).

**China:** In [three](https://home.treasury.gov/news/press-releases/sm1055) [separate](https://home.treasury.gov/news/press-releases/sm1073) [actions](https://home.treasury.gov/news/press-releases/jy0070), the USG sanctioned eight high-ranking Chinese Communist Party officials, including Politburo member Chen Quanguo, as well as the Xinjiang Public Security Bureau (XPSB), and the Xinjiang Production and Construction Corps (XPCC), a sprawling, government-backed administrative and paramilitary organization, for involvement in human rights abuses committed against Uyghurs in Xinjiang Province.The third of these designations, in March 2021, was coordinated with similar actions by the governments of [Canada](https://www.canada.ca/en/global-affairs/news/2021/03/canada-joins-international-partners-in-imposing-new-sanctions-in-response-to-human-rights-violations-in-xinjiang.html), the [European Union](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2021:099I:FULL&from=EN), and the [United Kingdom](https://www.gov.uk/government/news/uk-sanctions-perpetrators-of-gross-human-rights-violations-in-xinjiang-alongside-eu-canada-and-us#:~:text=The%20UK%20will%2C%20for%20the,against%20Uyghurs%20and%20other%20minorities.), marking the first time that all four major “Magnitsky” jurisdictions announced sanctions on the same day.

Corruption

**Cambodia:** In December 2019, the USG designated [Try Pheap](https://home.treasury.gov/news/press-releases/sm849), a Cambodian businessman, for building a large-scale illegal logging consortium reliant on the collusion of Cambodian officials. 11 entities owned or controlled by Try Pheap were subject to derivative sanctions. [Kun Kim](https://home.treasury.gov/news/press-releases/sm849), a senior General in the Royal Cambodian Armed Forces (RCAF), was designated for reaping significant financial benefit by using RCAF soldiers to intimidate, demolish, and clear-out land sought by a Chinese state-owned entity. Three family members who acted for Kim and 5 entities controlled by these individuals were subject to derivative sanctions.

**DRC:** In December 2017,the USG designated [Dan Gertler](https://home.treasury.gov/news/press-releases/sm0243), an Israeli billionaire, for engaging in 1.9 billion corrupt mining and oil deals with the Congolese state, including then-President Joseph Kabila. [34 entities](https://home.treasury.gov/news/press-releases/sm0417) owned or controlled by Gertler were subject to derivative sanctions, making this one of the largest cases, in terms of number of sanctions, in the history of GLOMAG.

**Latvia:** In December 2019, the USG designated[Aivars Lembergs](https://home.treasury.gov/news/press-releases/sm849), a Latvian politician and oligarch, for engaging in money laundering, expropriation of private assets for personal gain, bribery, and abuse of office. Four entities owned or controlled by Lembergs were also designated, although sanctions have since been [removed](https://home.treasury.gov/news/press-releases/sm860) from the Ventspils Freeport, after the government of Latvia took steps to remove Lembergs from control of the entity. The designations in Lembergs case represent the USG’s apparent interest in utilizing designations as incentives to compel behavior modifications and divestment.

1. The GMHRRA articulated a standard of “gross violations of internationally recognized human rights” as sanctionable activity. This term is defined in 22 USC §2304(d)(1) to non-exhaustively to include “torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.” However, EO 13818, which implements the GMHRAA, employs the apparently broader standard of “serious human rights abuses.” [↑](#footnote-ref-1)
2. Although private citizens and businesspeople can be designated for participating in corruption under the Global Magnitsky program (for instance, by bribing government officials), the program requires that the corrupted institution is a government institution of office, as opposed to a privately-owned corporation. [↑](#footnote-ref-2)
3. Asset freezes and visa restrictions can function as temporary measures serving to deter ongoing abuses, or as initial phases of larger accountability efforts, such as those to reclaim and return property to victim classes through civil forfeiture actions. Persons subject to U.S. jurisdiction who transact with designated individuals can be subject to various penalties. [↑](#footnote-ref-3)
4. Congress has the power to amend the Global Magnitsky Human Rights Accountability Act to compel designation or list individuals specifically under the program, should it decide to do so. Congress also retains the ability to create new programs and designate individuals directly. [↑](#footnote-ref-4)
5. For recent examples of such reports, see <https://www.govinfo.gov/content/pkg/FR-2018-12-28/pdf/2018-28311.pdf> and <https://www.govinfo.gov/content/pkg/FR-2019-12-31/pdf/2019-28231.pdf>. [↑](#footnote-ref-5)
6. All figures provided are current as of July 21, 2021. See: <https://www.humanrightsfirst.org/sites/default/files/USG%20Global%20Magnitsky%20Designations.xlsx> [↑](#footnote-ref-6)
7. For more on USG designations on active heads of state, see E.O. 13405, establishing sanctions against Belarusian leader Aleksander Lukashenka. For more on USG GloMag designations on former heads of state, see sanctions against Yahya Jammeh. [↑](#footnote-ref-7)