



By: Tomorrow's Affairs Staff

# What is the cost of Trump sanctioning the ICC?



The impact of the sanctions **imposed** by US President Donald Trump on the International Criminal Court will be devastating and long-term for the mechanism of international justice against the perpetrators of the most serious crimes, including genocide.

While the motives for his decision are purely political and aimed at protecting Israeli Prime Minister Benjamin Netanyahu from **prosecution** before the ICC, President Trump is opening a loophole in international law with these sanctions that will be difficult to close.

This is not the first time that Trump has used sanctions against the ICC. During his first term, in 2020, he imposed sanctions against ICC officials investigating whether US forces had committed war crimes in Afghanistan.

One of the victims of the sanctions was the then chief prosecutor Fatou Bensouda, the former justice minister of Gambia, who was **banned** from travelling to the USA and had her assets frozen, among other things. These sanctions were lifted by President Joe Biden.

## Who is under sanctions?

The first problem with Trump's new sanctions against the ICC is that it is still not clear who they apply to. The White House has not disclosed the names of the ICC officials that the US sanctions will impact, meaning that, to enforce these sanctions, entities from border patrol to banks will not know who to target until the names are released.

It is possible that British barrister Karim Khan, the ICC's chief prosecutor, is among those sanctioned.

**"Target Israel, and we will target you. You have been warned."**

A group of 12 Republican US senators already **threatened** him with sanctions in April 2024 if he files an indictment and an arrest warrant against Benjamin Netanyahu.

"Target Israel, and we will target you. You have been warned," the senators told prosecutor Khan at the time, but he ignored their threats and filed an indictment against Prime Minister Netanyahu and former Defence Minister Yoav Gallant for crimes in Gaza.

## A valuable gift to Netanyahu

The US president's primary motive for sanctioning the ICC is to provide the Israeli prime minister with strong evidence that he stands by Israel in his first weeks in office.

But not only that, Trump is showing Netanyahu that he personally stands behind him because the charges before the ICC are personalised; they do not refer to Israel but to its prime minister and former defence minister.

However, the indictment also carries a symbolic significance, as it criminalises Israel's entire action against Hamas, causing hurt to many Israelis, not just Netanyahu's supporters.

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Therefore, one of the political implications of Trump's decision will directly affect Netanyahu's positions on Israeli domestic policy positively, which perhaps is the most valuable gift from the American president for the Israeli prime minister at the beginning of his term.

However, is the price of such a political agreement too high, not only for the mechanism of international justice against the most serious crimes, including genocides, but also for the political interests of a large number of democracies, including America?

## Pressure on Putin

Trump's sanctions against the ICC undermine the little authority the court had over Vladimir Putin in relation to war crimes committed by Russian troops during the invasion of Ukraine.

The indictment and arrest warrant issued by the ICC against Putin in March 2023 have proven to be tremendous pressure in the long run.

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Because of the ICC decision, it was not easy for Putin to bear the risk of travelling abroad, and he needed an outlet in other countries in order to prove that he was not isolated.

At the same time, those who recognise the ICC and were close to Moscow were under pressure to cool their relations, such as South Africa. It was under enormous pressure to allow Putin to travel to Johannesburg for the 2023 BRICS summit, but he still did not come, instead sending Foreign Minister Sergey Lavrov and speaking by video link.

What made things easier for Putin was the harsh reaction of the American Republicans to the ICC's indictment against Benjamin Netanyahu, which he soon showed when he visited Mongolia in September 2024—one of the 125 countries that recognise the authority of the ICC without fear of arrest.

## Europe is in search of an alternative

On the other hand, Trump's sanctioning of the ICC is becoming another very fraught issue in relations with its closest allies—the EU, the UK, Canada, and Australia—signatories to the Rome Statute, the founding document of this court.

"Such measures increase the risk of impunity for the most serious crimes and threaten to erode the international rule of law, which is

crucial for promoting global order and security," **states** the joint letter signed by 79 countries, including all the Atlantic allies of the US.



*At this stage, we do not envisage any insurmountable obstacles - Michael McGrath*

Precisely because of the animosity of the US towards the ICC, and in an effort to ensure that the action of this court in relation to Vladimir Putin does not remain ineffective due to the expected political blockades, a European alternative appears in the form of a special tribunal that would deal only with Russian crimes committed in Ukraine.

Several European leaders have announced "major progress" in setting up this tribunal within the framework of the Council of Europe.

"We're at a point where very substantial progress has been made. At this stage, we do not envisage any insurmountable obstacles," **said** Michael McGrath, the European Commissioner for Democracy, Justice and the Rule of Law.

While waiting for 38 countries, including all EU member states, to sign the agreement on the establishment of this tribunal in April, experts are working on its statute, which will enable the prosecution of people from the top of the Russian state for decisions that led to aggression, as well as crimes committed in Ukraine.