

Held assets and the EU asset freeze

The Court of Justice on trusts

26 May 2026

Russia's invasion of Ukraine in February 2022 led the EU to expand its sanctions list under Council Regulation (EU) No 269/2014, freezing the funds and economic resources of every individual added to it.

Several of those individuals had, in advance of being listed, placed valuable assets into trusts. The question this opened, and on which the courts had until recently said little, was whether the freeze reaches assets held in a trust where the trust deed formally excludes the sanctioned individual from any right to use or benefit from those assets. On 21 May 2026, the Court of Justice of the EU answered the question across three judgments delivered on the same day. In Case C-483/23 (*T Trust*), the First Chamber addressed the position of the settlor; in the joined references in Case C-428/24 (*FZ AR*) and Case C-476/24 (*SX*), it addressed the position of the beneficiary. Together, the three rulings articulate a single working test: the freeze reaches trust-held assets wherever the sanctioned person retains, in law or in fact, the power to use those assets, to benefit from them, to dispose of them or to influence the trustee in relation to them.¹

Background

The regulation's Article 2(1) freezes all funds and economic resources belonging to, owned, held or controlled by the individuals listed in Annex I, together with the assets of any associated persons. Two further provisions sit alongside it: Article 2(2) prohibits making funds or economic resources available, directly or indirectly, to a listed individual; and Article 9 prohibits knowingly and intentionally participating in arrangements designed to circumvent the freeze. A trust complicates the application of that system. In a trust, one person, the settlor, transfers assets to another, the trustee, who holds them in their own name and administers them for the benefit of a third, the beneficiary.

This separation between the title to property and the enjoyment of it is the defining feature of the trust. The same separation makes the trust an effective device for severing, on the face of the paperwork, the link between a sanctioned individual and the assets the freeze is intended to reach.²

The three references arose from variants of the same pattern. In *T Trust*, the sanctioned person was the settlor. Four Italian operating companies were wholly owned by a parent company seated in Bermuda. The shares of the parent company had been placed in an irrevocable trust governed by the law of Bermuda, administered by a Swiss professional trustee, and supervised by a protector. By deed of 7 February 2022, the settlor was excluded from any future benefit under the trust. Three weeks later, the council added him to the EU sanctions list under Council Decision (CFSP) 2022/337 and Council Implementing Regulation (EU) 2022/336. On 16 March 2022, the Italian Financial Security Committee (*Comitato di Sicurezza Finanziaria*) froze the shares of the four companies and the underlying assets, on the basis that they remained, in substance, attributable to the now-sanctioned settlor. The companies and the trustee challenged the freeze before the Regional Administrative Court for Lazio (*Tribunale Amministrativo Regionale per il Lazio*). In the joined references in *FZ AR* and *SX*, the sanctioned person was the beneficiary, not the settlor. The first concerned an Italian operating company held indirectly through a Bermudian trust whose original beneficiary had been replaced shortly after his listing by his spouse, herself also sanctioned. The second concerned the yacht *Sailing*, held through an Italian company controlled by a trust of which the spouse was the sole beneficiary.

¹ *T Trust* (Case C-483/23), judgment of the Court of Justice (First Chamber) of 21 May 2026, EU:C:2026:408 (Biltgen P., von Danwitz V.-P., Ziemele R., Kumin and Gervasoni JJ., AG Campos Sánchez-Bordona, Opinion of 10 July 2025; language of the case: Italian); Joined Cases C-428/24 (*FZ AR*) and C-476/24 (*SX*), judgments of the Court of Justice (First Chamber) of 21 May 2026; Court of Justice [Press Release No 73/26](#) of 21 May 2026 (Luxembourg); [Council Regulation \(EU\) No 269/2014](#) of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, OJ L 78, 17.3.2014, p 6, art 2(1), as amended by [Council Regulation \(EU\) 2022/330](#) of 25 February 2022, OJ L 51, 25.2.2022, p 1.

² Council Regulation (EU) No 269/2014, *supra* n 1, arts 1, 2(1), 2(2), 9; [Convention on the Law Applicable to Trusts and on their Recognition](#) (concluded at The Hague, 1 July 1985), Hague Conference on Private International Law; [Directive \(EU\) 2015/849](#) of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, OJ L 141, 5.6.2015, p 73, art 3(6)(b).

In both, the trust deeds prohibited any enjoyment or disposal by the sanctioned individual during the period of sanctions; the Italian authorities nevertheless froze the company shares and detained the yacht, treating the assets as still attributable, in substance, to the trust beneficiary.³

Analysis

The court started from the principle that the words used in Article 2(1), namely belonging, ownership, holding and control, are terms of EU law that must carry a single, uniform meaning across the EU, the regulation containing no definition of them and no instruction to look to national law. The court noted that the language versions of the provision diverge. Settled case law resolves such divergences by reading the provision against the general scheme and purpose of the regulation rather than by following any single language version in isolation. The interpretive method, in other words, pointed the court away from the formal categories of property law and toward the function that the freeze is designed to perform.⁴

On that basis, the court read the two key terms, belonging and control, broadly. Belonging covers situations in which a person holds power over the assets in fact, even where someone else holds legal title; control covers every situation in which a person is able to influence the choices of another, even where no legal, proprietary or capital link runs between them. Applied to the trust, this means that the trustee's legal ownership does not prevent the assets from being treated as belonging to or controlled by the sanctioned settlor. The court's settlor-side test, repeated in the operative part of the judgment, is that the assets are frozen "provided that the [settlor] continues to have the power to use, benefit from or dispose of those resources or to exercise influence over them or over the decisions taken by the trustee in respect of them." The formal exclusion of the settlor from the list of persons who may benefit from the trust does not displace the freeze where the surrounding facts point to the settlor retaining practical control.⁵

The court's beneficiary-side test is the analytical mirror of the settlor-side test. Assets settled into a trust of which a sanctioned individual is the beneficiary are frozen even where the trust deed prohibits the beneficiary from enjoying or disposing of those assets during the period of sanctions, provided that the beneficiary still, in fact, retains an equivalent power of use, benefit, disposal or influence. The post-listing transfer of beneficial rights to the spouse, on which both joined references turned, does not of itself displace the freeze.



The surrounding facts have to be assessed in the round, including the timing of the substitution against the timing of the sanctions, the closeness of the relationship between the substituted person and the sanctioned person, and the use of the trust's income and distributions.⁶

The settlor-side and beneficiary-side tests are two faces of a single working doctrine on Article 2(1). The decisive question, across both, is whether the sanctioned person retains any one of the four operative powers (use, benefit, disposal or influence). The court grounded the construction in the internal coherence of the freezing regime as a whole, taking Articles 1, 2(1), 2(2) and 9 of the regulation as a single system. To read Article 2(1) more narrowly would deprive the broad definitions of "freezing" in Article 1, and the broad prohibition on indirect making-available in Article 2(2), of their practical effect, and would leave the prohibition on evasion in Article 9 easily defeated by the simple device of placing a trust between the sanctioned person and the assets.

In assessing whether the requisite power has, in fact, been retained, the national court must look to the law that governs the trust but must not stop there. Where, as in both *T Trust* and *FZ AR*, the trust is governed by the law of Bermuda, the court may take account of any powers that Bermudian trust law permits the settlor or beneficiary to keep in reserve, whether or not those powers are written into the deed. The assessment must extend to the surrounding facts: the relationships between the sanctioned individual and those running the trust (the trustee and the protector), the destination of the trust's assets to activities benefitting the sanctioned individual or persons close to them, and the use of unnecessarily complex arrangements, which the court treated, in line with the council's own published guidance, as itself a signal of control.⁷

³ In *T Trust*: [Council Decision \(CFSP\) 2022/337](#) of 28 February 2022 amending Decision 2014/145/CFSP, OJ L 59, 28.2.2022, p 1, and [Council Implementing Regulation \(EU\) 2022/336](#) of 28 February 2022 implementing Regulation (EU) No 269/2014, OJ L 58, 28.2.2022, p 1. In *FZ AR* and *SX*: the original beneficiary and the spousal substitute were both listed in 2022 under the same package of restrictive measures (Court of Justice [Press Release No 73/26](#)). The Italian government's preliminary jurisdictional objection under the first paragraph of Article 275 of the Treaty on the Functioning of the European Union (TFEU) was withdrawn at the hearing in the light of [Neves 77 Solutions](#) (Case C-351/22), judgment of the Court of Justice (Grand Chamber) of 10 September 2024, EU:C:2024:723.

⁴ *T Trust*, *supra* n 1, paragraphs 60 to 72 (on the autonomous and uniform meaning of the operative concepts, on the divergence between language versions, and on the broad construction of "belonging" and "control" in art 2(1) of Regulation (EU) No 269/2014), citing *HTTS v. Council* (Case C-123/18 P), judgment of the Court of Justice (Grand Chamber) of 10 September 2019, EU:C:2019:694, paragraphs 71 and 75.

⁵ *T Trust*, *supra* n 1, paragraph 106 and the operative part of the judgment.

⁶ Joined Cases C-428/24 (*FZ AR*) and C-476/24 (*SX*), *supra* n 1, applying the equivalent test to the beneficiary-side limb of the analysis; Court of Justice [Press Release No 73/26](#) of 21 May 2026.

⁷ *T Trust*, *supra* n 1, paragraphs 93 to 105 and, in particular, paragraph 102, citing [Council of the European Union, Update of the EU Best Practices for the Effective Implementation of Restrictive Measures](#), document ST 10572/22 of 27 June 2022, paragraphs 62, 63, 64 and 67; [European Commission, Guidance for EU Operators: Implementing Enhanced Due Diligence to Shield Against Russia Sanctions Circumvention](#) of 7 September 2023, p 9.

Comparison

The position adopted in the companion judgments converges with the approach of the principal parallel regimes. In the UK, the asset freeze under the Russia (Sanctions) (EU Exit) Regulations 2019 turns on the ownership-and-control test in section 11 of the Sanctions and Anti-Money Laundering Act 2018 (SAMLA). The residual branch of that test asks whether the alleged controller has the practical capacity to ensure that the affairs of the person concerned are conducted in accordance with the controller's wishes. In *Mints v. PJSC National Bank Trust*, the Court of Appeal read that branch expansively, holding that political authority over a state-linked Russian bank could be treated as controlling it for sanctions purposes. In the US, the Office of Foreign Assets Control (OFAC) operates from a different starting point, the 50% rule, under which an entity owned in the aggregate as to 50% or more by sanctioned persons is itself sanctioned. For trusts and similar arrangements, OFAC then looks through the formal structure to the actual powers and rights of the settlor, the beneficiaries and any protector. The shared premise across the three regimes is that beneficial control cannot be hidden behind the formal independence of a trustee. The principal difference is analytical: the EU and UK regimes treat control as an independent gateway concept, whereas the US regime starts from an ownership threshold and reaches control only as a back-up inquiry. For a trust structure of the kind at issue in the three rulings, the EU test is likely to be the most demanding of the three.⁸

Outlook

The immediate consequence of the three rulings is that the inquiry trustees, corporate service providers, family offices, financial institutions and asset managers must run shifts from the four corners of the trust deed to the surrounding pattern of conduct. A trustee administering a structure in which a settlor or a beneficiary is sanctioned, or at risk of being sanctioned, can no longer rely on the formal exclusion of that person from the trust, and must instead assess whether the person retains any power of use, benefit, disposal or influence, documenting that assessment by reference both to the powers that the governing law of the trust permits to be held back and to the factual signals the court identified.

The position of intra-family transfers, made acute by the beneficiary-side cases, warrants particular attention. The court did not establish any presumption that a transfer of beneficial rights to a spouse or relative shortly before or after a sanction is an act of evasion. Operators should be alert to the corresponding risk of overcompliance, since the breadth of the test may incline financial institutions and service providers to decline to act in cases where in truth no retained control exists.

Beyond the civil and administrative exposure, there is the further matter of criminal enforcement. Member states have transposed the EU Directive on criminal offences and penalties for the violation of EU sanctions. The combined effect of those national laws and the companion judgments is that trustees, protectors and corporate service providers may now face criminal liability for arrangements that evade the freeze. The retained-powers analysis is, therefore, no longer merely a precondition to the administrative freezing of assets; it is also a threshold to potential criminal exposure for the people running the trust.⁹

How can we help?

Our International Trade & Foreign Investment Practice advises trustees, corporate service providers, family offices, financial institutions and asset managers on the application of EU, UK and US sanctions to trust and other similar arrangements, including ownership-and-control analysis, the seeking of exemptions and the handling of notifications, and the management of frozen assets. We have advised on the structuring and the unwinding of holding arrangements affected by the Russia-related sanctions, and we work with clients to align their compliance procedures with the functional test that the Court of Justice has now confirmed across all three rulings.

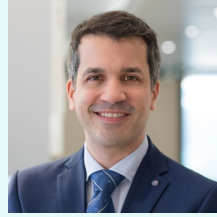
⁸ Russia (Sanctions) (EU Exit) Regulations 2019, SI 2019/855; [Sanctions and Anti-Money Laundering Act 2018](#), s 11; [Mints v. PJSC National Bank Trust \[2023\] EWCA Civ 1132](#) (6 October 2023); US Office of Foreign Assets Control, [Revised Guidance on Entities Owned by Persons Whose Property and Interests in Property are Blocked](#) (13 August 2014); [OFAC Frequently Asked Questions Nos 398-402](#) (50% Rule); Executive Order 14024 of 15 April 2021.

⁹ [Directive \(EU\) 2024/1226](#) of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures, OJ L, 29.4.2024 (transposition deadline 20 May 2025); Council Regulation (EU) No 269/2014, *supra* n 1, arts 4 to 6b, 8.

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