

# Germany Defends Use of EU Global Human Rights Sanctions Regime Against China

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On 7 December 2020, the Council of the European Union (EU) adopted a new Global Human Rights Sanctions Regime that allowed the EU to impose restrictive measures on individuals and entities responsible for serious human rights violations and abuses worldwide. The new regime provided for travel bans, asset freezes and a prohibition to make funds or economic resources available, either directly or indirectly, to listed human rights offenders. The EU Global Human Rights Sanctions Regime was first applied on 2 March 2021 against four Russian individuals involved in serious human rights violations in Russia.

On 22 March 2021, the Council of the EU listed another eleven individuals and four entities from six different countries because of their involvement in torture, extrajudicial killings, enforced disappearances and systematic use of forced labour. Among the listed individuals were four senior Chinese officials from the Xinjiang Uyghur Autonomous Region (XUAR) who were sanctioned for human rights abuses against the mainly Muslim Uyghur community. In addition, the Xinjiang Production and Construction Corps (XPCC) Public Security Bureau was also sanctioned. Asked about the sanctions against the Chinese persons, a spokesperson for the Federal Foreign Office stated:

I must therefore point out once again at this point that the package that the EU adopted today is not aimed at a specific country, but that it is aimed at serious human rights violations in general, regardless of the place where they are committed.

As far as China is concerned, I think we have explained here several times that we consider the situation of the Uyghurs and other ethnic and religious minorities in Xinjiang to be difficult and that this issue is high on the EU's and also the Federal Government's list of serious concerns with regard to the human rights situation in China. ... we have repeatedly addressed this topic both bilaterally at meetings with Chinese interlocutors and publicly in UN forums, among other places.

The existence of political re-education camps, widespread surveillance, systematic restrictions on the religious freedom of Uyghurs and other minorities in Xinjiang, and reports of forced labour, forced sterilization and forced birth control are serious human rights violations.

The four individuals and the entity listed have played an active role in shaping and implementing Chinese policies in Xinjiang, which include, *inter alia*, widespread arbitrary detention, large-scale surveillance, indoctrination, degrading treatment, and violations of the freedom of religion and belief.

On the day of the listing, the Chinese Ministry of Foreign Affairs summoned the head of the EU delegation in Beijing and 'lodged stern representations and strong condemnation over the EU's decision of imposing unilateral sanctions against China under the pretext of the so-called human rights issues in Xinjiang ... and notified China's relevant countermeasures.'

The Chinese government considered the listing as a gross interference in China's internal affairs, a flagrant breach of international law and basic norms governing international relations. As a countermeasure, it sanctioned ten individuals and four entities that 'severely harm China's sovereignty and interests and maliciously spread lies and disinformation'. The individuals and their families were prohibited from entering the Chinese mainland, Hong Kong and Macao. The individuals and companies and institutions associated with them were also restricted from doing business with China. The sanctioned persons included two German members of the European Parliament, a German scholar and the Mercator Institute for China Studies in Berlin.

The Chinese government was incensed by the listing of its officials. During the regular press conference on 23 March 2021, the spokesperson for the Chinese Foreign Ministry strongly condemned the imposition of sanctions on individuals and entities in Xinjiang 'under the pretext of human rights.' He criticised, amongst others, Germany for the imposition of the sanctions, saying:

It must be pointed out that these countries, who proclaim themselves to be 'judges' of human rights and are keen to lecture others, have an ignoble record on human rights. They are not in the position to criticize China, much less to shift blames to China for what they have committed. ...

As early as in the beginning of the 20th century, German colonists slaughtered indigenous Namibian tribes. Between 1904 and 1908, German military killed over 100,000 indigenous people, including 3/4 of the Herero people and over 1/2 of the Nama people. United Nations Economic and Social Council Commission on Human Rights said in a report that this is the first genocide in the 20th century. During WWII, Nazi Germany slaughtered almost six million Jews, including one million children.

The German government, on the other hand, was displeased with the Chinese sanctions. On 23 March 2021, Federal Foreign Minister Heiko Maas said on the sidelines of a NATO meeting in Brussels:

We have made it very clear to the Chinese Ambassador in Berlin that the sanctioning of members of Parliament and scientists is absolutely incomprehensible. While we sanction abuses of human rights, Beijing sanctions democracy. We cannot accept this.

On the same day, the Federal Foreign Office called in the Chinese ambassador in Berlin for urgent talks and ‘made clear the German government’s view that China’s sanctions against European MPs, scientists and political institutions as well as non-governmental organizations represent an inappropriate escalation that unnecessarily strains ties between the EU and China.’

On 20 April 2021, the Minister of State at the Federal Foreign Office Niels Annen revisited the sanctions issue, saying:

It is important to speak to China about the problematic human rights situation, especially the issue of labour standards and forced labour in the Xinjiang Uyghur Autonomous Region.

The European Union has added authority to these concerns by imposing targeted and moderate restrictive measures under the new human rights sanctions regime.

From our point of view, the Chinese reactions to this are completely exaggerated, incomprehensible and unacceptable. We are not interested in further escalation, but we will not be intimidated either.

What is ‘exaggerated, incomprehensible and unacceptable’ lies, of course, in the eyes of the beholder. While for a long time, the target States of unilateral US and EU sanctions simply endured these restrictive measures, more recently China and Russia started to retaliate by imposing their own unilateral sanctions on individuals and entities in Western countries. The EU and others thus can no longer impose unilateral sanctions with impunity.

There is no legal basis in international law for the EU’s unilateral sanctions in response to human rights violations in China. In particular, there is no legal basis for sanctions that may themselves violate international law such as the prolonged freezing of assets of foreign nationals in the EU. While a State’s human rights obligations towards its own nationals may be considered obligations *erga omnes*, the violation of which allows all States to invoke the responsibility of the wrongdoing State, there is still no generally accepted right of other States to take countermeasures in response to such violations. Countermeasures are also to be directed at the wrongdoing State, rather than at individual State officials or private individuals. To the extent that the measures taken under the EU Global Human Rights Sanctions Regime violate the rights of foreign individuals under international law, their State of nationality may take countermeasures against the EU but not against random individuals or private entities within the EU. China would thus not have been entitled to take countermeasures against individual members of parliament, scholars or civil society institutions in the EU. Although the Chinese Ministry of Foreign Affairs referred in its statement to ‘countermeasures’, China did not impose any such measures for the simple reason that countermeasures are illegal acts. The entry ban and restrictions on business activities in China, however, were not illegal under international law. This is also shown by the fact that German officials spoke of inappropriate, incomprehensible or unacceptable, but not illegal acts. These measures were merely unfriendly acts. As the Chinese officials

were unlikely to have assets in the EU, the exchange between the EU and China amounted in practice to a tit for tat of unfriendly acts.

Category: [Coercive measures short of the use of force](#)

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