

## The Congressional Trigger for U.S. Global Magnitsky Sanctions: Section 1263(d)

Targeted sanctions like the [Global Magnitsky program](#) are valuable tools for the U.S. government to respond to corruption and human rights abuses around the world. While the executive branch generally has discretion over the use of these tools, a provision of the [Global Magnitsky Act](#) requires the administration to respond to bipartisan requests from certain members of Congress to determine whether specific alleged perpetrators meet the criteria for such sanctions.

Invoking that provision – Section 1263(d) of the Act – is no guarantee of effective congressional advocacy. The executive branch disputes that it is legally bound to act on such requests, and it has rarely, if ever, responded to requests with the kind of written assessment the statute requires. Executive branch officials have sometimes sought to appear responsive to such requests, however, and the executive branch has imposed sanctions on at least some of the targets identified in most of the requests that members of Congress have made under this provision.

Members of Congress should continue to use Section 1263(d) to urge the executive branch to be transparent and proactive with Global Magnitsky designations. Such requests may be more effective in raising the priority the executive branch gives to lower-profile sanctions recommendations than in overcoming strong policy objections to a specific proposed sanction. The Treasury and State Departments should be responsive to requests made under this provision.

### Congress's role in the Global Magnitsky program

In Section 1263(c) of the Global Magnitsky Act, Congress directed the executive branch to consider information from certain outside sources in deciding whether to impose sanctions. Those sources include “other countries,” “nongovernmental organizations that monitor violations of human rights,” and the leaders of certain congressional committees.

Separately, Section 1263(d) of the Act gave some of members of Congress a more powerful tool for seeking U.S. sanctions: allowing the chairperson and ranking member of certain congressional committees, through joint requests, to require that the executive branch determine whether named individuals or entities have engaged in certain sanctionable conduct and report on whether it intends to impose sanctions on them.

### Members of Congress who can invoke the trigger provision

Any member of Congress can simply ask the executive branch to consider imposing targeted sanctions. To formally invoke the Section 1263(d) provision and seek to compel a response, certain leaders of congressional committees must act.

- For sanctions regarding human rights violations, the request must come from both the chairperson and ranking minority member of the [Foreign Affairs](#) or [Financial Services](#) committees in the House of Representatives or the [Foreign Relations](#) or [Banking, Housing, and Urban Affairs](#) committees in the Senate.

- 
- For sanctions regarding corruption, the request must come from the chairperson and ranking minority member of any House-and-Senate pair of those committees.

In either case, bipartisan support is needed; bicameral support is also necessary for a request for corruption sanctions. It is unclear why Congress set a higher threshold in corruption cases.

### Executive branch obligations in response to the trigger provision

Within 120 days of receiving a request from Congressional leaders, the executive branch is required by the Global Magnitsky Act to:

- Determine whether the specified person(s) have engaged in sanctionable activities; and
- Report in unclassified or classified form to the requesting members of Congress on whether it intends to impose sanctions on the persons.

The Act does not require the executive branch to impose sanctions, although some [congressional communications](#) have inaccurately suggested that it does.

### The executive branch's position on the trigger provision

The executive branch formally rejects the Section 1263(d) requirement. When signing the Act into law in December 2016, President Obama [stated](#) that requiring the president to determine whether someone had committed a sanctionable act infringed on the constitutional separation of powers, and that the president would "maintain [their] discretion to decline to act on such requests when appropriate."

The executive branch has sometimes appeared to accommodate the requirement in limited ways. President Trump [described](#) the December 2017 [executive order](#) that created the Global Magnitsky sanctions program as implementing the Act. In a 2022 hearing before the Senate, the Biden administration's nominee for State Department legal adviser [committed](#) "to helping ensure that Congress receives" determinations in response to requests "in a timely manner consistent with the Act."

In three of the four publicly known congressional invocations of Section 1263(d), the executive branch subsequently imposed sanctions on at least some of the individuals who were named or described as a class in the request – though not all the named persons, not always within the statutory timeframe of 120 days, and generally not with a written response to the request aside from the announcement of sanctions.<sup>1</sup>

---

<sup>1</sup> With varying success, some members of Congress have attempted to invoke Section 1263(d) *without* securing support from the prescribed committee leaders, as required by statute. In December 2017, for example, a House-only group made a [request](#) focusing on corruption allegations that concerned two Nicaraguan nationals; [one](#) was sanctioned later that same month and [the other](#) in July 2018. In August 2018, an assortment of members of Congress made a [request](#) focused primarily on corruption allegations regarding several named individuals in Central American countries; none have been sanctioned under the Global Magnitsky program.

---

Most visibly, congressional requests for consideration of sanctions against Saudi Arabia's crown prince and a major Chinese technology company both failed to spur sanctions. Requests under this provision – as with any other request from influential members of Congress – may be more effective in elevating a case that the executive branch simply has not prioritized than in helping overcome an administration's considered opposition to a potential sanction.

## Section 1263(d) requests since 2017

### The Murder of Jamal Khashoggi

Days after Jamal Khashoggi's October 2018 disappearance into the Saudi consulate in Istanbul where he was murdered, a group of 22 senators – including the relevant leaders of the Senate Foreign Relations Committee – sent a [letter](#) to President Trump invoking Section 1263(d) and requesting a “determination on the imposition of sanctions” regarding “any foreign person” involved in gross violations of Mr. Khashoggi's human rights. The senators' letter specified that the President should consider information concerning “the highest ranking officials” in the Saudi government.

- This was the first time that members of Congress publicly sought to trigger Section 1263(d).<sup>2</sup> The relevant leaders of the House Foreign Affairs Committee publicly [supported](#) the senators' request shortly afterwards.
- The two committee leaders later stated more [explicitly](#) that they sought an assessment of Crown Prince Mohammed bin Salman's role in the murder.
- In November 2018, the Treasury Department [imposed](#) Global Magnitsky sanctions against 17 Saudi individuals who were involved in the killing of Khashoggi, though the Trump administration apparently did not provide a formal reply to the request at this time.
- In February 2019, at the 120-day mark after the senators' request, Trump [repeated](#) Obama's claim of discretion to decline to act on such requests. Secretary of State Pompeo also [sent](#) a private letter (later [released](#)) that was [criticized by senior members](#) of both houses and parties for failing to meet the requirements of Section 1263(d). A public [reply](#) from Republican senators described the letter as simply repeating the involvement of the 17 sanctioned Saudis without addressing the responsibility of top Saudi officials.
- In March 2019, civil society groups [urged](#) congressional leaders to continue to seek a full response from the administration.
- In February 2021, the newly-elected Biden administration publicly released an intelligence [assessment](#) of the Saudi government's role in the murder, concluding – though not with reference to the Global Magnitsky Act – that the crown prince had “approved an operation in Istanbul, Turkey to capture or kill journalist Jamal Khashoggi.”

---

<sup>2</sup> A December 2017 request was substantively focused on corruption allegations but did not include committee leaders from both houses.

- 
- The new administration imposed Global Magnitsky [sanctions](#) on one additional Saudi official and a unit of the Saudi security forces, but not on the crown prince. The State Department also announced a visa-sanctions [policy](#) named for Khashoggi under which it barred the entry into the United States of 76 unnamed Saudi individuals involved in transnational repression.

## Corruption in Moldova

In July 2022, the relevant foreign-affairs committee leaders in both houses of Congress wrote a [letter](#) to President Biden invoking Section 1263(d) and urging him “to strongly support Moldova’s democratic reform and anti-corruption agenda by making a determination on the imposition of sanctions” against three named individuals allegedly involved in corruption.

- The Biden administration apparently did not provide a written response to the congressional leaders.
- In October 2022, though, the Treasury Department [sanctioned](#) two of the three named Moldovan individuals: Vladimir Plahotniuc, for corruption under the Global Magnitsky sanctions program, and Ilan Shor, for election interference under a Russia-specific sanctions program.
- The U.S. government has not sanctioned the third named individual, Veaceslav Platon, though [Canada has done so](#).

## Vladimir Kara-Murza’s Arbitrary Detention

In September 2022, the relevant leaders of the Senate Foreign Relations Committee sent a [letter](#) to President Biden invoking Section 1263(d) and requesting that he “make a determination regarding whether any foreign person is responsible for any such violations related to” the detention of Russian politician and activist Vladimir Kara-Murza.

- In October 2022, Human Rights First [announced](#) it had recommended 13 Russians for sanctions in connection with Kara-Murza’s detention. In January 2023, seven NGOs wrote a [letter](#) to the State and Treasury Departments urging them to sanction such individuals by the 120-day statutory deadline of January 20, 2023.
- After the 120-day period passed [without action or a response](#), a top State Department official responded to questioning at a Senate [hearing](#) from one of the Senate letter’s authors, “We’re not only going to get you an answer [to the letter], we’re going to get you Magnitsky sanctions in very short order.”
- In early March 2023, the Treasury and State Departments [imposed](#) sanctions against six Russian individuals involved in Kara-Murza’s ongoing arbitrary detention.
- The administration apparently did not otherwise respond to the Section 1263(d) letter.

## Hikvision

In February 2023, the relevant leaders of the House Foreign Affairs Committee [wrote](#) President Biden invoking the Global Magnitsky Act in general terms and requesting a determination of whether the Chinese company Hikvision

has “facilitated internationally recognized human rights violations, including against the minority Uyghur population....”

- Hikvision had already in November 2020 been added to a new [U.S. list](#) of “Chinese military-industrial complex companies” in which U.S. persons are prohibited from investing. Internal U.S. discussions about imposing Global Magnitsky sanctions on the company had been publicly [reported](#) in 2022.
- At a January 2024 House Foreign Affairs Committee hearing, the chairperson [stated](#) that Treasury had decided not to sanction Hikvision. Committee staff confirmed that the executive branch provided a written response to this Section 1263(d) request, but the text has not been made public.

Other [bills](#) have been introduced that would further require the executive branch to determine whether Hikvision and other companies meet the criteria for Global Magnitsky sanctions