



26th February 2023

Australian Sanctions Office
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
BARTON ACT 2600

Dear Sir/Madam,

Review of Australia's autonomous sanctions framework

The Vietnamese Australian Lawyers' Association (VALA) is a not-for-profit and non-government organisation. Our primary objectives are to provide legal education, awareness, and assistance to the disadvantaged members of the community, including vulnerable people, refugees and victims of discrimination and other forms of human rights abuses, and networking among legal practitioners and law students.

VALA welcomes the opportunity to provide a submission for the review of Australia's autonomous sanctions framework.

Reducing the number of pieces of legislation:

The current legal frameworks for autonomous sanctions are time-consuming to legislate. The Minister for Foreign Affairs is required to issue a legislative instrument on each occasion a sanction is imposed on a country or activities committed by an individual or entity in that country. For instance, in order to list individuals responsible for the grave human rights abuses in Rakhine State in Myanmar, a legislative instrument was issued under the *Autonomous Sanctions Regulations 2011* followed by an explanatory statement and a statement of compatibility with Human Rights to comply with the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Since introducing the *Autonomous Sanctions Act 2011*, over 30 legislative instruments with additional explanatory statements have been issued to designate a country, individual, or entity to the sanction list. Searching for legislative instruments with detailed information on designated individuals or entities is difficult.

CSO, NGO and individual participation in sanctions list nomination:

The Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Regulations 2021 came into effect on 21st December 2021 & the Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021 came into effect on 8th December 2021. December 2022 marked one year after the introduction of the Magnitsky-style Regulation and Act in Australia. However, to date, only 39 Russian individuals¹ responsible for serious corruption exposed by Mr Magnitsky and the accomplice of his abuse and death have been added to the sanctions list. It remains unclear how Civil Society Organisations can

¹ <https://www.legislation.gov.au/Details/F2022L00411>

submit names of individuals or organisations to the sanction list. CSOs have no other platform but to present their submission by publishing details of human rights violators on their website or other public announcements to raise awareness with DFAT. This method inadvertently defeats the purpose of investigating the human rights violators' actions and gathering evidence because as soon as they know that the attention is on their actions, they will destroy or hide evidence of their offences.

DFAT has established the Australian Sanctions Office (ASO) to provide guidance, process application for sanctions permits, and assist individuals, businesses and other organisations in promoting compliance with Australia's sanctions legislation. The ASO provides information for entities or individuals to apply for sanction permits, apply to have their name removed from the list or inform that their assets were wrongly frozen. However, CSOs, NGOs, individuals and other organisations cannot nominate human rights violators to the sanctions list. They can only register to be added to the email list for sanctions list updates.

On 5 August 2021, the government responded to the JSCFADT Human Rights Sub Committee that any individual or organisation could make representations to the government regarding potential sanctions targets and to develop a streamlined mechanism to consult with civil society and other stakeholders on listing recommendations. However, such a streamlined mechanism is yet to be established.

A fully functional and operative Magnitsky-style legislation allows for the flexibility of a punitive measure that restricts or prohibits actions of human rights violations anywhere in the world and a mechanism to deter human rights violators from such actions.

Recommendations:

1. Develop a streamlined mechanism to consult civil society and other stakeholders on listing recommendations under the Magnitsky-style sanctions.
2. Develop a user-friendly website for easier navigation.

VALA, thank you for the opportunity to provide our submission. We are optimistic that the Department of Foreign Affairs and Trade – Australian Sanctions Office will consider our recommendations when providing the Committee's report to the Department of Home Affairs.

Yours faithfully,



Janice Le
Secretary
Vietnamese Australian Lawyers' Association (VALA)