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[MENU](#)

[NEWS \(/NEWS\)](/NEWS)

[BRICK COURT IN THE NEWS
\(/IN-THE-NEWS\)](/BRICK-COURT-IN-THE-NEWS)

[FUTURE EVENTS \(/FUTURE-
EVENTS\)](/FUTURE-EVENTS)

[PAST EVENTS \(/PAST-EVENTS\)](/PAST-EVENTS)

[Search listing by keyword](#)

UK and EU sanctions in the New York courts

05/08/24

The District Court for the Southern District of New York (SDNY) has recently considered a novel question of sanctions law in relation to disclosure orders. Under Title 28 of the United States Code, section 1782 provides a mechanism for parties to obtain disclosure from persons or entities located in the US for use in foreign or international proceedings, known as 1782 Applications.

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The question the court had to decide was whether it

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would breach UK or EU sanctions law to compel a party to disclose information to a designated person. <https://twitter.com/brickcourt>



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The central issue was whether such a disclosure order could constitute making economic resources available to, or for the benefit of, a designated person contrary to the relevant prohibitions in UK and EU law. The parties adduced conflicting legal expert reports on the issue. The Court had to consider the leading English Court of Appeal authority on sanctions, *Mints v PJSC Bank* [2023] EWCA Civ 1132. Preferring the testimony of the Petitioner’s expert, Ali Al-Karim, the Court held that a section 1782 order would not breach UK or EU sanctions laws. The Court also dismissed other objections to the 1782 Application. The Court therefore granted the Petitioner’s motion for discovery.

Ali Al-Karim acted as the legal expert for the successful Petitioner. The Petitioner was represented by US counsel, Ford O’Brien LLP.

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[\(/practice-areas/commercial-law\)](#)
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[\(/practice-areas/competition-law\)](#)
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[\(/practice-areas/public-law\)](#)

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[News](#)
[\(/news\)](#)
[Brick Court in the News](#)
[\(/in-the-news\)](#)
[Future Events](#)
[\(/future-events/\)](#)
[Past Events](#)

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