The ELSA Tilburg Legal Journal

Your Voice in the Legal Conversation

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Association updates

Prague Study Trip

Between 12–15 February 2026, ELSA Tilburg went on a study visit to Prague. During our time in the Czech capital, we attended lectures, visited institutions, and thoroughly explored the Czech culture. Our academic events introduced us to the Czech legal system and offered perspectives on international law. As Global Law students, we truly valued the chance to learn about other jurisdictions.

With the warm support of ELSA Prague, we were welcomed into the city and guided throughout our stay. Thanks to their efforts, we experienced Prague from a local perspective and had the opportunity to connect with members of another ELSA group.

We want to thank ELSA Prague for the hospitality and commitment shown during our visit, and we would like to thank our members who took the opportunity to join us on the visit. The trip was a great opportunity to truly experience the ELSA spirit and to see the strength of the ELSA network.

Dutch Supreme Court Visit

On 11 March 2026, ELSA Tilburg visited the Hoge Raad, the Dutch Supreme Court, in The Hague. We were given a tour of the building, given a presentation on the court, its work and the overall legal system in the Netherlands and had an opportunity to speak with a civil lawyer working at the court.

It was an inspiring and interesting opportunity, and a chance to learn more about the legal system in our country of study.

We are looking forward to our future visits and events.

Ada Güler, Vice President in charge of Seminars & Conferences

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Upcoming events

Our competitions calendar has been published! See our socials for further dates and application instructions.

Thursday, 16th April – Fashion Law Moot Court Competition
Corporate law track (advanced), Tort law track (beginner-intermediate)

Tuesday, 21st April – ELSA Negotiation Competition, Tilburg Local Round

24th-26th April – ELSA Tilburg x TiMUN Conference Legal Committee

Keep an eye out on our socials for future events, as well as the opening of applications for the ELSA Tilburg board of 2026-2027 this spring.

On Mooting: Lessons from the NMCC Finalists

An interview with Alyssa Brum Alice and Theo Billetter, second-place finishers and Best Written Submission winners at the 2026 ELSA National Moot Court Competition | Editorial by Dora Babić

This year's National Moot Court Competition (NMCC), organised by ELSA the Netherlands, brought together law students from four local groups in Amsterdam, Groningen, Maastricht and Tilburg to compete in one of the country's most prestigious student mooting events. Hosted in collaboration with De Brauw Blackstone Westbroek, one of the leading law firms in the Netherlands, the competition saw Tilburg's team finish as runners-up while also claiming the award for Best Written Submission.

Two members of the Tilburg team, Alyssa Brum Alice and Theo Billetter, sat down with the ELSA Tilburg Journal to share their experience. The team's third member, Iveta Ivanova, competed in the local round and participated in building the submissions, but was unable to join them at the national final.

The Competition and the Case

The NMCC is an annual competition in which each local ELSA group organises its own internal round, with the winning team advancing to a national final. This year's substantive theme was European Union competition law, a recurring theme in recent years. The procedural framing, however, was what set this edition apart.

The case was structured as a Court of Justice of the European Union (CJEU) Preliminary Reference Procedure. At its heart was a dispute between the Dutch National Competition Authority (the ACM) and two companies that had entered into a so-called no-poach agreement, an arrangement under which neither party would recruit or hire the other's employees. The District Court of Rotterdam, encountering questions of EU law it needed guidance on, posed three questions to the CJEU on how that law should be interpreted.

For the students involved, this procedural format was striking at first glance. A preliminary reference is not adversarial in the way most moot courts are. Rather than arguing the facts of a specific dispute, participants are asked to help the court formulate a general legal rule, one that would apply not just to this no-poach agreement but to any comparable situation.

> "You have to avoid discussing the particular facts that brought the case. You can only refer to them to illustrate something about the law. The challenge is: how do you answer a legal question as objectively as you can, while still representing a particular interest?" — **Alyssa Brum Alice**

Theo adds that the confusion was not unique to the Tilburg team. Even in the national finals, all participants were still finding their way around the format. What distinguished the Tilburg submissions was grasping the core principle

earlier and applying it more consistently than others.

What Makes a Preliminary Reference Different

Both Alyssa and Theo have competed in other moot courts, and both are clear that the CJEU preliminary reference format is unlike anything else they have encountered. Most mooting competitions replicate the adversarial common law dynamic: you represent a client, you argue their interests against the opposing party, and the court decides between you.

In a preliminary reference, the goal is different. The referring court is not asking the CJEU to decide the case. It is asking for an authoritative interpretation of EU law on specific points. The students must therefore think less like advocates and more like legal scholars who happen to have a preferred outcome.

Theo draws a useful comparison with the Telders International Law Moot Court, in which he is also currently competing. That competition involves an advisory opinion to the International Court of Justice, a structurally similar format in some respects, but one where the facts still play a greater interpretive role. At the CJEU, the law is the primary object of analysis, and the facts exist only to illustrate it.

Understanding this distinction early on was, both agree, the most important advantage a team could have. It shaped how they approached the written submissions and, later, the oral pleadings.

Writing the Submissions

Know Your Forum Before You Write a Word

The single most important piece of advice that emerges from the conversation is clear: know which court you are appearing before and understand what procedural rules govern it. Questions about precedent, the value of Commission decisions, and whether the court is bound by prior judgments all have fixed, correct answers at the CJEU level. They are not matters for creative advocacy. As Alyssa puts it plainly: you can play around with substantive law, but procedural rules are just a straight yes or no. For example, the Court of Justice is never bound to follow a Commission decision, and that is something you must know going in.

Depth vs. Breadth: How Many Arguments?

A common dilemma for moot court participants is whether to pursue one strong argument in depth or present several at varying levels of detail. The answer, both agree, depends on the forum and the structure of the case.

In the NMCC, participants were required to answer all three questions posed by the referring court. Failing to address all three would result in losing points. But in other settings, especially adversarial proceedings, the calculus is different. In a criminal proceeding, fallback positions are rarely available. In a civil law context, presenting a main argument alongside one or two sub-arguments is not only acceptable but expected.

Alyssa articulates this through the concept of subsidiary arguments: your main argument might fail, and you must have a fallback. In a competition law context, if you argue that an agreement does not violate Article 101 TFEU, you should simultaneously have a justification argument under Article 101(3) TFEU ready for the scenario in which the court finds that it does. Without it, a rejection of your primary point leaves you with nothing.

> "Three arguments instead of one very good one wins. You need subsidiary arguments. If you don't have a fallback and the court rejects your main point, it's just a violation, even if your argument was really strong." **— Alyssa Brum Alice**

The choice of which argument to lead with is not always freely made. Sometimes the facts make it obvious that a violation will be found, and the strongest available argument is therefore the justification rather than the denial. Reading the case honestly before committing to a structure is essential.

Process: From First Read to Final Draft

Both Alyssa and Theo describe a similar approach to starting a new moot court case, broadly organised into four phases.

The first is to read the case, then leave it alone. Read it once, let it sit for hours or days, depending on the timeline, then return to it with fresh eyes. Both Alyssa and Theo describe the incubation period as genuinely productive: ideas surface while cooking, in the shower, on a commute. The time is not wasted.

The second is an initial team meeting held before any research is divided. Bringing everyone together first to share impressions means the team builds on each other's instincts rather than working in isolation from the start.

The third phase is independent research. Once the team has a shared map of the issues, each member takes responsibility for specific questions. Theo emphasises this.

> "Give each other enough space to do your own research and figure things out independently. Don't always sit next to each other, working through everything together, because some people don't flourish like that. Understand each other as teammates." **— Theo Billetter**

The fourth phase is coming back together to practise. Once drafts are complete, the team reconvenes to merge arguments into a coherent whole and begin rehearsing oral pleadings. This is where, Theo says, the real understanding develops.

> "Once you've changed your written submission into oral pleading notes, you have to practice as much as possible. Get your teammates to ask critical questions, argue from the other side. When I left the finals, I knew my arguments maybe twice as well as when I walked in, because the judges' questions forced me to really think about what I was saying." **— Theo Billetter**

Oral Pleadings

What to Include and What to Leave Out

The oral pleading is not a recitation of the written submission. There will rarely be more than 30 minutes available, and interruptions from the bench are guaranteed. The goal is to convey the core arguments persuasively and engage with the court, not to deliver a prepared speech from start to finish.

The burden of proof also shapes what to emphasise in the time available. If the burden of proving a violation rests with you, every element of your argument may need to be covered. If you are the respondent, undermining a single element of the claimant's case may be sufficient, freeing up time to focus on the justification where your own burden applies.

Handling Questions from the Bench

Questions from the bench are not always hostile. Theo notes that judges often ask precisely because they are engaged with an argument and want it developed further, or because they want clarification on a point that is genuinely unclear.

> "Don't always think that a question from the judge is a bad thing. Sometimes it means they're engaging with your arguments. It can actually be a great opportunity." **— Theo Billetter**

That said, unexpected questions are inevitable, especially in later rounds where judges are experienced academics and practitioners. The key skill is staying calm. If the answer is not known, it should be disclosed honestly before redirecting to what is known.

> "Maybe the answer is: 'I haven't read the facts of this particular case, but my point is this', and then you move on. Staying calm really makes a difference. That's what judges consistently tell us in feedback sessions." **— Alyssa Brum Alice**

The other critical skill is adaptability. Pleading notes are a support structure, not a script. Judges will ask questions that correspond to points planned for later in the argument; those points must be brought forward on the spot. Theo adds a practical caution: if you have been given 15 minutes to plead, do not expect to use all of it uninterrupted. Writing a five-page script makes you reliant on the page and stops you from listening to the court.

> "Don't think of your notes as a script where a question is just a break before you continue from where you left off. Sometimes they ask the question that's at the end of your script. You have to bring the end to the middle – and then you don't repeat it." **— Alyssa Brum Alice**

A Note on Format

Alyssa uses bullet points organised by colour for her pleading notes: one colour for main topics, another for her strongest arguments, so that when time is short, she can navigate at a glance. The underlying principle is that notes should be a prompt for ideas that are thoroughly understood, not a text to be read aloud. Judges have already read the written submissions and are evaluating the ability to argue orally.

Summary: Tips for a Great Written Submission and Pleadings

Drawing together the conversation, the following are the most important pieces of advice Alyssa and Theo would give to students preparing for a moot court competition.

1	**Know your forum before anything else.** Procedural rules on precedent, burden of proof, and the nature of the proceedings have fixed, correct answers. Learn them before you begin. You cannot argue your way around procedural law; save your advocacy for substance.
2	**Read the case, then let it rest.** Give yourself time before your first team meeting. Ideas develop in the background, and a few days of reflection will sharpen your analysis considerably.

3	**Start with a shared team meeting before dividing issues.** Share initial impressions as a group first. Different members will notice different things, and a shared foundation prevents inconsistencies later in the process.
4	**Always build in subsidiary arguments.** Your main argument may fail. Have a fallback ready, and think honestly about which argument is actually your strongest given the facts.
5	**Give each other space to work independently.** Once issues are divided, let each person do their own research. Not everyone flourishes in constant collaboration, and independent thinking often produces stronger individual contributions.
6	**Know your teammates' arguments, not just your own.** In oral rounds, you may need to step in on a point that is not formally yours. Discuss each other's issues regularly so nobody is caught off guard.
7	**Keep pleading notes flexible, not scripted.** Use bullet points and colour coding rather than full prose. Judges will interrupt and redirect you. If you treat your notes as a linear script, you will struggle to adapt.
8	**Stay calm under questioning.** You will be asked things you cannot fully answer. Acknowledge the limits of your knowledge honestly, redirect to what you do know, and move on. Composure is key.
9	**Treat questions as opportunities, not attacks.** Judges often ask questions to invite you to develop your argument further. Engagement from the bench is a good sign, not a signal that something has gone wrong.
10	**Practice under pressure, repeatedly.** The gap between understanding your arguments and being able to argue them under scrutiny is large. The only way to close it is repeated rehearsal, including adversarial questioning from your own teammates.

The ELSA Tilburg Journal thanks Alyssa Brum Alice and Theo Billetter for their time. This article has been edited for length and clarity.

ELSA TILBURG X WOMEN IN LAW | INTERNATIONAL WOMEN'S DAY 2026

Negotiating Women's Rights in the Age of AI

Treaty Negotiation Competition | March 5, 2026 | Editorial by Dora Babić

ABOUT THE FORMAT

Diplomacy, not debate

A treaty negotiation competition is a fundamentally different exercise from mooting or debating. Rather than arguing a legal dispute before a panel, participants step into the role of a delegation representing specific countries, tasked with negotiating a treaty provision and reaching an agreement. The goal is not to win an argument but to reach a result that genuinely serves the interests of the countries you represent.

Preparation goes well beyond legal research. Participants must understand their countries comprehensively: their political priorities, regulatory culture, economic interests, and typical approach to international commitments. From that foundation, each team defines its red lines (positions it cannot move from), its minimally acceptable terms, and the areas where compromise is possible.

Written submissions reflect this logic, too. Rather than a structured legal pleading, participants produce a negotiation document: a strategic roadmap laying out their country's goals, constraints, and reasoning. It is less about argumentation and more about demonstrating a clear-eyed understanding of the position you represent.

THIS YEAR'S TOPIC

CEDAW and the challenge of AI-driven discrimination

The Convention on the Elimination of All Forms of Discrimination Against Women, adopted in 1979, remains one of the most significant instruments in international human rights law. Its definition of discrimination is deliberately broad, allowing it to be interpreted and applied to contexts its drafters could not have anticipated. But the speed of technological change is now testing those limits.

This year's competition asked whether CEDAW adequately addresses discrimination stemming from AI and digital technologies. The examples are concrete and well-documented: deepfake technology is overwhelmingly used to target women through non-consensual intimate imagery; algorithmic systems in hiring and credit reproduce and entrench existing societal biases; and digital platforms create new vectors for gender-based harassment at scale. It is important to note that these concerns are not hypothetical; they are harms happening now, largely under-regulated and inadequately addressed by existing legal frameworks.

At the same time, Women in Law believe AI presents genuine opportunities for advancing women's rights. Automated systems can assist international bodies in monitoring treaty compliance and detecting violations in real time. Algorithms can identify and flag harmful content online. AI-powered tools can provide anonymous, accessible support to women in dangerous situations. The technology is not inherently hostile to the aims of CEDAW, but without deliberate regulation, its risks will continue to fall disproportionately on women.

Participants engaged with questions of state responsibility, the role of private actors, and the evolving nature of human rights obligations: all

within the framework of a treaty designed for a very different world.

THE BIGGER PICTURE

Why this competition, and why now

International treaties derive their authority from the obligations they impose on states and the standards they set for the international community. CEDAW has been essential in pushing governments to reform discriminatory laws and treat gender equality as a binding legal commitment. But standards are only as effective as their implementation, and implementation requires lawyers who understand the law in context.

Women in Law, a student association dedicated to highlighting women's contributions to the legal profession, sees this kind of platform as essential to that preparation. The collaboration with ELSA reflects a shared belief that law students engage most meaningfully with the profession when given the space to practise it, not only to learn about the challenges women face, but to develop and argue solutions.

Timed around International Women's Day, the competition is a reminder that gender equality remains an active and urgent project, and that the questions that were debated in this competition are ones the next generation of lawyers will be expected to answer in practice.

Negotiation Tips

How to be a better negotiator – either in the next competition, the Global Law second-year assignment, or in your future legal career.

01

KNOW YOUR COUNTRY THOROUGHLY

Understand not just your country's legal positions but its regulatory instincts: whether it tends toward strict oversight, market-driven approaches, or rights-based frameworks. Gaps in that knowledge will show under pressure and cost you leverage.

02

DEFINE YOUR RED LINES BEFORE YOU WALK IN

Identify in advance what you cannot concede, what your minimum acceptable outcome is, and where you have genuine room to move. Clarity on these three things is the foundation of any credible negotiating position.

03

SIMULATE WITHIN YOUR TEAM

Run through likely scenarios before competition day. What will other delegations push for? What language might they propose? Preparing responses in advance means you can adapt in the room without losing focus on your objectives.

04

BE STRATEGIC, NOT REACTIVE

Effective negotiators know when to hold their position and when to move. The goal is not to overpower the other side but to reach an outcome that protects what matters most, and that requires listening carefully, not just speaking confidently.

05

ANTICIPATE THE OTHER DELEGATIONS' MOVES

Think beyond your own position. Research how other countries typically approach treaty language on rights and regulation. Anticipating their arguments before they are made gives you the composure to respond on your own terms.

06

TREAT YOUR STRATEGY DOCUMENT AS A FOUNDATION

The negotiation document is not a legal brief. It is a strategic declaration. Use it to demonstrate a clear understanding of your country's goals, constraints, and reasoning. Judges are looking for a coherent strategy, not rhetorical performance.

The ELSA Tilburg Journal thanks Emily Thidarat Prins, Vice President of Competitions of ELSA Tilburg, and Durga Rangan, Events Director of Women in Law, for their contributions to this article.

EU Sanctions Applied to EU Citizens and Residents

Opinion Piece by Can Özyiğit*

On December 15th, 2025, the European Union published Council Implementing Regulation 2025/2568, adding 12 natural persons and 2 legal entities to the list of persons, entities, and bodies to be sanctioned under the RUSDA sanctions regime.[1] The regime has been in place since 2014 following Russia's annexation of Crimea,[2] and expanded in scope over time. One of the new names on the list drew particular attention in some circles, and highlighted an aspect of the sanctions previously unnoticed.

Jacques Baud is a retired colonel from the Swiss Army, and has worked as a Swiss strategic intelligence officer, military adviser to the UN High Commissioner for Refugees and the Swiss Department of Foreign Affairs, head of policy and doctrine for UN Department of Peacekeeping Operations, and security adviser to NATO before he became a freelance intelligence and security consultant.[3] He publishes written and video analysis and commentary on current events, and appears as an expert guest on online interviews.

When Baud was sanctioned for "[acting] as a mouthpiece for pro-Russian propaganda and [making] conspiracy theories",[4] it drew attention not only because of his professional background and concerns for freedom of expression – limitation of expression by a central authority based on viewpoint seems highly problematic, and would require its own separate article to discuss – but also because he is a long-term resident of the EU living in Brussels.

After Mr. Baud's case came to light, two more cases caught attention: that of Hüseyin Doğru, a German citizen living in Berlin,[5] sanctioned for "[supporting] actions by the Government of the Russian Federation which undermine or threaten stability and security in the Union and in one or several of its Member States, including by indirectly supporting and facilitating violent demonstrations and engaging in coordinated information manipulation,"[6] through his personal social media accounts, and his own 'red.' media platform, which primarily reported on protests concerning the Israel-Palestine conflict;[7] and Nathalie Yamb, a Swiss and Cameroonian dual citizen,[8] and an African decolonization activist, sanctioned for "adopting Moscow's language and targeting France and the West in particular, with a view to ousting them from the African continent," thereby "supporting actions or policies attributable to the Government of the

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[1] Council Implementing Regulation (EU) 2025/2568 concerning restrictive measures in view of Russia's destabilising activities [2025] OJ L 15.12.2025.

[2] Council Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2014] OJ L 78/16

[3] Jacques Baud, LinkedIn Profile, <https://www.linkedin.com/in/jacques-baud-20227614b/> accessed 25 February 2026.

[4] Council Implementing Regulation (EU) 2025/2568 (n 1), p 11.

[5] The initial listing showed Doğru as a Turkish citizen (n 6). After his legal and public appeals stating he only holds German citizenship, his nationality on the listing was updated to "Turkish - German" with Council Implementing Regulation 2025/2021 implementing Regulation (EU) 2024/2642 concerning restrictive measures in view of Russia's destabilising activities [2025] OJ L 6.10.2025. Notice of incorporation for AFA Medya A.Ş. published on November 22nd, 2022, in the Turkish Trade Registry Gazette No 10709, page 1455 states his nationality as German.

[6] Council Implementing Regulation (EU) 2025/965 implementing Regulation (EU) 2024/2642 concerning restrictive measures in view of Russia's destabilising activities [2025] OJ L 20.5.2025, item 20.

[7] ibid; Doğru is the founder and the only listed director of AFA Medya A.Ş. based in İstanbul, Türkiye, which in turn owns 'red.'. The listing alleges that 'red.' has close financial and organisational ties to Russia and has disseminated false information and polarising narratives on controversial topics to create social discord in its primarily German audience.

[8] Switzerland is not an EU Member State. However, it is surrounded by EU Member States. As Council Regulation 2024/2642 concerning restrictive measures in view of Russia's destabilizing activities [2024] OJ L 9.10.2024, Article 1(h) establishes that airspaces are included in the definition of 'territories,' EU sanctions would prevent Ms. Yamb from accessing the territory of one of her home countries.

Russian Federation which undermine or threaten democracy, the rule of law, stability or security in the Union or in its Member States by engaging in the use of information manipulation."[9]

When someone is listed for sanctions under this regime, it triggers obligations on all EU Member States and persons and entities therein to prevent the sanctioned individual from accessing funds and economic resources,[10] as well as entering into or transiting through EU Member State territories,[11] including overflying EU airspace.[12] Member States are not obliged to refuse their own nationals entry into their territory,[13] and they may derogate from the asset freeze under such conditions they deem appropriate, after having determined the funds or economic resources will be used to satisfy basic needs or cover legal expenses, among other narrow exceptions.[14] Evading sanctions is a criminal offense, so if their friends, family, or neighbors provide any material help, such as sharing food or paying their bills, those who help can be criminally liable and punished with fines or imprisonment.[15]

Sanctions are a foreign policy tool that seeks to bring about a change in the policy or conduct of those targeted. The EU defines sanctions as "a peaceful tool of diplomacy," "a preventive and non-punitive instrument" to defend "EU values and interests," "promote stability, democracy, the respect for the rule of law and human rights."[9] When applied to foreigners living outside the EU, for which the measures are designed, the non-punitive aspect might be debatable, based on the targeted individual's level of entanglement with the EU and its Member States. However, if they are applied to EU citizens or residents, they certainly seem punitive and disruptive, verging on debilitating. Thus, one would expect appropriate legal scrutiny examining the necessity, propriety, and proportionality of sanctions against an individual before they are applied.

Article 47 of the Charter of Fundamental Rights of the European Union (EU CFR)[16] grants the right to a fair trial for "everyone whose rights and freedoms guaranteed by the law of the Union are violated." The rights to private life and property, recognized by the Charter under Articles 7 and 17, respectively, are very likely violated by the travel ban and asset freeze, as evidenced by the effects of being sanctioned on daily life, listed above. Additionally, Article 41 of the Charter specifically defines the right to be heard for administrative action, "before any individual measure which would affect [someone] adversely is taken."

Unfortunately, and seemingly in direct conflict with the letter of the law, the Court of Justice of the European Union (CJEU) decided that "the Community authorities cannot be required to communicate those grounds before the name of a person or entity is entered in that list for the first time,"[17] because "the restrictive measures in question must, by their very nature, have a surprise effect,"[18] and prior notice would reduce their effectiveness. Instead, the case can be appealed to the CJEU after sanctions are applied. This is sensible when considering a foreigner, who, upon receiving notice, could transfer their funds outside of EU jurisdiction and continue

[9] Council Implementing Regulation (EU) 2025/1278 implementing Regulation (EU) 2024/2642 concerning restrictive measures in view of Russia's destabilising activities [2025] OJ L 26.6.2025, item 38.
[10] Council Decision (CFSP) 2024/2643 concerning restrictive measures in view of Russia's destabilising activities [2024] OJ L 9.10.2024, Article 2.
[11] ibid Article 1.
[12] Council Regulation 2024/2642 concerning restrictive measures in view of Russia's destabilizing activities [2024] OJ L 9.10.2024, Article 1(h).
[13] Council Decision (CFSP) 2024/2643 (n 12), Article 1(2).
[14] ibid Article 2(3).
[15] Directive (EU) 2024/1226 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673 [2024] OJ L 29.4.2024, Articles 4-5.
[16] Charter of Fundamental Rights of the European Union [2012] OJ C 326/391.
[17] Joined Cases C-402/05 P and C-415/05 P *Kadi and Al Barakaat International Foundation v Council and Commission* [2008] ECR I-6351, paras 338-341.
[18] Case C-417/11 *P Council v Bamba* [2012] EU:C:2012:718, para 74.

their life relatively unaffected, but not so for someone whose center of life is within EU territory.

Finding a balance between the effectiveness of the sanctions and the protection of fundamental rights should be possible without complete deference to the executive. Considering the sanctions take effect inside EU territory, and with the reasonable expectation that there will not be any individuals or organizations freely transacting within that territory whom the EU considers to be terrorist or at least criminal, restricting the movement of the individual and their funds only within the EU and SEPA, closely monitoring their transactions (with prior notice), and placing a maximum transaction/transfer cap would be restrictive enough to limit the extent of target individual's activities without a punitive effect. If a complete asset freeze and travel ban are deemed necessary, they can be enacted after scrutiny by a court, satisfying EU CFR's due process requirements under Articles 41, 47, 48, and 49.

In fact, even under current practice, the CJEU requires the Council to "identify the actual and specific reasons why [it] considers, in the exercise of its discretion, that that measure must be adopted in respect of the person concerned," and that "compliance with the obligation to state reasons is all the more important because it constitutes the sole safeguard enabling the person concerned, at least after the adoption of that decision, to make effective use of the legal remedies available to him in order to challenge the lawfulness of that decision."[19]

The Court annulled the listing of individuals in several cases,[20] lastly in *Tokareva v Council,*[21] on the basis that the individuals did not fit the criteria they were sanctioned under. However, the Court allows broad discretion to the extent of the criteria as it is decided by the Council,[22] unless "the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue."[23] Put plainly, if someone is sanctioned for being a "leading businessperson," the Court will scrutinize whether they are indeed a prominent businessperson, but not whether being a prominent businessperson justifies being sanctioned.

It is understandable that the CJEU is cautious of reaching the political aspects of cases, both for judicial neutrality and separation of powers concerns, yet this level of deference might effectively vitiate their duty under Article 263 TFEU to review acts of EU bodies "on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers."[24]

Even more concerningly, there are instances such as the Tokareva line of cases, where the Council seemingly ignored CJEU judgements annulling individual listings. Maya Nikolaevna Bolotova Tokareva is the daughter of a sanctioned businessman. On July 21st, 2022, she was sanctioned for being "a natural person associated with listed persons."[25] In a September 2024 judgement, the CJEU annulled the Council decisions listing her under the sanctions regime.[26] On March 14th, 2025, the Council adopted

[19] ibid, paras 49-53; *Kadi and Al Barakaat v Council and Commission* (n 17), paras 336-337.
[20] Case T-541/24 *Pumpyanskiy v Council* [2025] ECLI:EU:T:2025:841; Case T-273/24 *Ezubov v Council* [2025] ECLI:EU:T:2025:628; Case T-388/24 *Makhlouf v Council* [2025] ECLI:EU:T:2025:704; Case T-301/22 *Aven v Council* [2024] ECLI:EU:T:2024:214; Case T-304/22 *Fridman v Council* [2024] ECLI:EU:T:2024:215.
[21] Case T-693/25 *Tokareva v Council* [2026] ECLI:EU:T:2026:118.
[22] Case C-266/05 *P Sison v Council* [2007] ECR I-1233, paras 33-34; Case T-509/10 *Kala Naft Co v Council* [2013] ECLI:EU:C:2013:776, para 120.
[23] Case C-72/15 *PJSC Rosneft Oil Company v Her Majesty's Treasury and Others* [2017] ECLI:EU:C:2017:236, para 146.
[24] Treaty on the Functioning of the European Union [2012] OJ C 326/47.
[25] Council Decision (CFSP) 2022/1272 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2022] OJ L 193/219, item 1201.
[26] Case T-744/22 *Tokareva v Council* [2024] ECLI:EU:T:2024:608.

Decision (CFSP) 2025/528,[27] which did not include Tokareva's name, yet she remained on the consolidated list of sanctions after the update.[28] This was later addressed in the February 11th, 2026 judgement annulling the listing once again, and finding the Council in violation of Article 266 TFEU requiring EU institutions to "take the necessary measures to comply with the judgment of the Court of Justice of the European Union," and stating that replacing an annulled decision with an identical decision would deprive the Court's judgements of their practical effect,[29] rendering the review process meaningless.[30] As of March 1st, 2026, Ms. Tokareva remains on the list.

This demonstrates the significance of having judicial scrutiny before restrictive measures go into effect. EU CFR Article 48(1) establishes that "everyone who has been charged shall be presumed innocent until proved guilty according to law." Current practice of sanctions seems to turn this right on its head, depriving people of their fundamental rights until they prove themselves innocent. Even if someone successfully challenges their listing, current practice allows relisting them with different – or evidently even the same – allegations, requiring them to go through the court process again, with no clearly defined end.

Current practice relies on the assertion that the sanctions are non-punitive measures with an exclusively preventive purpose, and the assumption that they will be applied to foreigners whose fundamental rights are to be secured by their own state and not the EU.

The legal principle is *nullum crimen, nulla poena sine lege*: no crime, no punishment without law. In Engel and Others v. The Netherlands, the European Court of Human Rights developed criteria to determine whether adverse administrative action crosses the threshold of a criminal proceeding.[31] The three-part test looks at the domestic classification of the action, such as administrative, criminal, or disciplinary; nature of the action, as in how broadly the rule is applied, whether it carries stigma, how it compares with ordinary criminal sanctions; and severity of the penalty. The criteria are alternative, not cumulative. If one of them indicates a criminal character, the heightened guarantees of criminal due process apply. Although sanctions would satisfy at least one criterion of the Engel test, classifying them as non-punitive removes the possibility of its application to this issue.

I believe this article demonstrated the extensive effects of sanctions for the targeted individuals and those around them, how they breach fundamental rights guaranteed by the EU, and the lax political standards with which they are applied. Following from these foundations, I argue that a higher level of scrutiny is required to preserve the rule of law and propose a three-part test to assess the punitive aspect of sanctions.

Firstly, the sanctioned individual's center of life should be examined to establish their exposure to the restrictive measures. Is their primary residence within the EU? If so, for how long have they been a resident? How many days per year do they spend in the EU? Where are their family and social ties? What portion of their daily transactions are made through EU financial institutions?

Secondly, the nature and severity of impact on the individual should be evaluated to determine the degree to which their daily activities are disrupted. Can they meet their basic needs? Do they suffer increasing or irreparable harm while the sanctions remain in effect? Are their fundamental rights affected? To what extent can

[27] Council Decision (CFSP) 2025/528 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2025] OJ L 15.3.2025.
[28] European Commission, *European Union Consolidated Financial Sanctions List*, https://data.europa.eu/data/datasets/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions accessed 1 March 2026.
[29] The CJEU interpreted that failure to remove Ms. Tokareva's name after the annulment decisions by the Court amounted to a *de facto* relisting.
[30] *Tokareva v Council* (n 21), para 53.
[31] *Engel and Others v Netherlands* (1976) 1 EHRR 647.

they rely on a non-EU state to safeguard their rights? Are they dependent on an EU Member State to do so?

Thirdly, the extent of the measure should be weighed against the policy objective to assess proportionality. Is the full measure, as it is applied, required? Can the same policy end be achieved without infringing fundamental rights or infringing to a less intrusive degree? Is the disruptive effect proportional to the desired policy goal?

The combination of these factors will provide a structured framework of exposure, effect, and proportionality to evaluate whether the real effect of sanctions crosses the threshold of being punitive. If so, it could be plausible to think that they are being used to suppress legitimate dissent within the EU without bearing the political cost when applied to journalists or political activists without other legal bases.

The RUSDA sanctions regime started with targeting political and military decision-makers, expanded to include their economic connections, and later social and familial connections. Since March 2022, when the sanctions expanded to include media companies, 26 media organizations have been sanctioned, most of which are not state-owned. In 2025, the Council started listing individual journalists, claiming they are spreading disinformation. Sanctioning media outlets for their expression already crosses a significant threshold.[32] Sanctioning individual journalists for the same, however, is a far more concerning development, which warrants close monitoring.

Whether one supports or opposes sanctions in general, their application to EU citizens and residents without prior due process seems like an abuse of a foreign policy tool for internal political ends. If the courts or the general public acquiesce to this practice, democracy and the rule of law in the EU will be eroded.

These developments do not concern only sanctioned individuals, and concerns about procedure should not be dismissed based on substance. Vaguely defined and selectively applied legal tools lend themselves to lawfare, and the fact that these measures are used against a certain group today does not preclude them from being used against another group tomorrow, which might include the readers of this article.

The effects of this potential cultural shift would likely not be confined to the EU either; they would be global. Academic research suggests that when a prominent actor fails to uphold a proclaimed norm, the violation can erode global perception of the norm's binding force.[33] As the EU positioned itself as a standard-bearer for the rule of law, any breach would cause the EU to lose political ground in criticising other actors, and set a precedent framing such violations politically and socially more tolerable.

Although it is not covered by mainstream media channels, there is increasing awareness of this issue[34], and hopefully the tide will turn before it does permanent damage to EU culture and fundamental values. Latest judgements[35] and legal opinions[36] signal that this might be the case, but the jurisprudence on this issue is still settling, and the direction it takes will have significant consequences for freedom of expression and the rule of law.

[32] *Handyside v United Kingdom* (1976) 1 EHRR 737 (ECtHR) para 49.
[33] Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change' (1998) 52(4) *International Organization* 887–917.
[34] eureporter, *EU advocate general rejects Latvia's appeal in Russian sanctions case, reasserting rule of law over politics*, < https://www.eureporter.co/world/latvia/2025/11/05/eu-advocate-general-rejects-latvias-appeal-in-russian-sanctions-case-reasserting-rule-of-law-over-politics-2/> accessed 01 March 2026; European Business Magazine, *When Courts Rule but Sanctions Stay: Europe's Sanctions Enforcement Issues*, <https://europeanbusinessmagazine.com/business/when-courts-rule-but-sanctions-stay-europes-sanctions-enforcement-issues/> accessed 1 March 2026.
[35] See n 19.
[36] Joined Cases C-440/24 P and C-441/24 *P Aven and Fridman v Council* [2025] ECLI:EU:C:2025:854, Opinion of Advocate General Biondi delivered on 30 October 2025, paras 18, 44, 49, and 53.

Further reading:

Legal Opinion on EU Sanctions by Prof. Dr. Ninon Colneric and Prof. Dr. Alina Miron
https://bsw-ep.eu/wp-content/uploads/Rechtsgutachten_Sanktionen_gegen_natuerliche_Personen_BSW_von_der_Schulenburg_Firmenich.pdf

Disciplinary Sanctions against Judges: Punitive but not Criminal for the Strasbourg Court
https://eucrim.eu/articles/disciplinary-sanctions-against-judges-punitive-but-not-criminal-for-the-strasbourg-court/

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AI Within the Context of Law

From the perspective of an engineer law student |By Burhan Bavkır*

AI[1] is the latest buzzword. If we are to believe the companies, it will solve all our problems. One morning, we will wake up to a world where AI takes care of all the grunt work for us. Not tomorrow, maybe not this year, but soon, very soon.

Even as a skeptic, I must concede that AI will likely have a growing impact on our lives. Nevertheless, I am here to cut through the hype to empower you to make the best use of AI, with helpful tips and tricks along the way. I will briefly explain how AI works before talking about how to make the best use of it as a lawyer.

This article in no way condones the usage of AI in violation of school rules. It is only intended to promote a more responsible approach.

But how does AI work?[2]

There is a very simple underlying mechanism to generative AI: you "teach" it by feeding it information. As you feed it information, it recognizes patterns and predicts what should come next. Think of the auto-suggest[3] on your phone—over time, it picks up the words you use and suggests them as you type. It often even "learns" the typos you make, suggesting them over the correct spelling. Generative AI does something similar, but on a much larger scale and complexity. You write a sentence, and it predicts the whole article, or even a whole book. The keyword here is that it "predicts", it does not articulate, it does not know the subject matter in the way a person would. It works so well because it was fed millions of books, articles, blog posts, discussions, etc, consuming information on an incredibly large scale. The key here is that AI is not so much about "intelligence" as it is about "information". It owes its power to the immense amount of information it consumes.

The end-result is that generative AI can come up with impressive responses. But ultimately, it is just predicting the best response without a fundamental grasp of the subject. It is bound to make mistakes, and the larger the response, the more mistakes it will make. Ask it to write a paragraph from a sentence, and you will get a decent response; ask it to write a book, and it won't be nearly as good.

How to use AI during your studies

There was a time when teachers would forbid students from using calculators, as students would not always have a calculator with them, and would have had to know how to calculate independently. In hindsight, that might sound silly now—there is no point denying that you have access to a calculator practically at all times. But I would say basic math is still an important skill, even in a world full of calculators. And while math skills are an advantage, you would lose that advantage quickly if you didn't know how to use a calculator at all.

We must accept that AI is here to stay. Even if all the current tools somehow end up failing, another similar technology would take their place. So, I am not going to ask you not to use AI and start living in a remote village growing tomatoes for a living, but I will try to give you enough context so you can make better use of it. Not just to get good grades, but also to gain the skills to make better use of AI later in life when you start working.

[1] For the benefit of the casual reader (while potentially angering people who actually work on AI), we will not get into the distinction between the terms AI and generative LLMs.
[2] Obviously, I cannot go into much detail in a short article. These are very complex tools, with many moving parts. The goal here is simply to give an overall understanding.
[3] I am well aware that auto-suggest does not use a machine learning model; again, simplifying things for the benefit of the reader.

Do you really need AI?

This is the first question you should ask yourself when faced with a new task. As a student, you are learning new skills. At this point, everything is a new challenge, which might look insurmountable at first.

At its current state, AI is great at making you believe it is doing a tremendous job. But I can tell from personal experience that even large companies are struggling to measure if and how much AI is helping. It is much more difficult for a student to tell if the work produced by AI is better or worse than their own. So don't start with the assumption that AI will do a better job than you.

Immediately resorting to AI has several important ramifications for your personal development. First, if you have not performed a task a few times yourself, you won't know if you can do it or to what degree you can do it. Second, most skills are developed on top of others, and skipping learning the basic skills will make it much harder to learn more advanced skills. If you have never done the tutorial assignments yourself, you will have a much harder time preparing for the finals.

Never trust AI

By this point, it should be evident to you that AI makes mistakes. You might think that the mistakes are few and far between, and that you can still trust it. This could be quite deceiving, as AI often makes mistakes that are catastrophic in nature, in one instance costing a law firm more than $50,000 to fix.[4] More recently, three lawyers in the Netherlands received warnings for using AI[5], because their submissions to the court contained references that simply did not exist or were irrelevant. Even AI tools specifically made for legal research fabricate cases and legislation between 17% to 33% of the time.[6] You certainly cannot afford to make these mistakes; you have to make sure the AI-produced work does not contain such errors.

Say you are summarizing a 100-page judgment, and the AI model produces a nice 10-page summary. How would you go about finding and fixing potential mistakes? You would have to read the whole judgment, and then, on top of that, read the summary and figure out what was missing or wrong—already more work than what you would have done without the AI assistance. Often enough, I spend so much time fixing what AI generates that I question its usefulness. I am not the only one; many other professionals have similar experiences. This is even more dangerous as a student, where you do not have the professional background to easily identify mistakes. To an untrained eye, AI seems like it makes sense even when it is producing nonsense.

Make sure AI is providing up-to-date information

Law is ever-changing by nature, with new legislation coming into force all the time, repealing older versions, and case law constantly providing new precedents. This is particularly difficult for AI to follow, as it consumes all information, old and new. It can, and often will, reference older provisions or case law that are no longer applicable. This is another reason why it is important to verify the references provided by AI models.

Let's look at a specific example: I have asked Claude to provide me with the implementation of the Rome Statute in the Netherlands:

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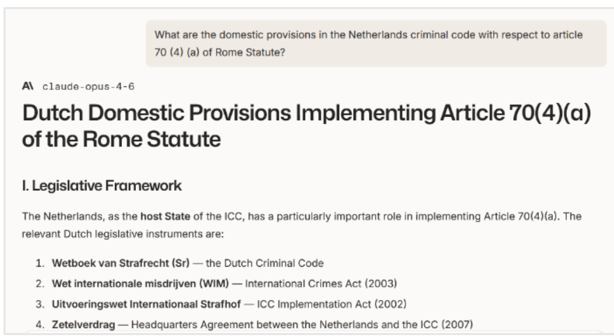
[4] Merken, S. (October 25, 2025). *Large US law firm apologizes for AI errors in bankruptcy court filing.* Reuters. https://www.reuters.com/legal/litigation/large-us-law-firm-apologizes-ai-errors-bankruptcy-court-filing-2025-10-24/.

[5] Hulsen, S. (February 22, 2026). *Advocaten krijgen waarschuwing en moeten op cursus na verkeerd gebruik AI.* NOS. https://nos.nl/artikel/2603525-advocaten-krijgen-waarschuwing-en-moeten-op-cursus-na-verkeerd-gebruik-ai.

[6] Jenner & Block (February 11, 2026). *California Courts Send Clear Message: AI Shortcuts Have Serious Consequences.* JDSUPRA. https://www.jdsupra.com/legalnews/california-courts-send-clear-message-ai-9738653/.



The information provided was outdated—the International Crimes Act of 2003 was later repealed, and new legislation modified the Dutch Criminal Code to include these provisions directly. In such cases, when you notice the information used is outdated, you can guide it with a follow-up prompt:

> Your information is outdated, looks like the International Crimes Act has been repealed and new legislation took its place.
>
> claude-opus-4-6
>
> **Updated Analysis: Dutch Implementation of Article 70(4)(a) – Current Legislative Framework**
>
> Thank you for the correction. You are right. The **Wet internationale misdrijven (WIM)** of 2003 has been replaced by the **Wet ter implementatie van het Statuut van Rome** (Implementation Act for the Rome Statute), which entered into force more recently and consolidated and updated the Dutch legislative framework for the Rome Statute.
>
> I must be transparent: my knowledge of the precise contents and structure of this new legislation is limited, and I do not want to fabricate or misrepresent its provisions. Let me set out what I can responsibly state and identify where my knowledge falls short.

To do this, however, you first need to recognise that a mistake has been made. Additionally, in this case, it was not able to help further because this particular model just lacked the latest information. Most models will often not admit when they do not know, so you must be vigilant.

Be as specific as you can

The wife sends her software developer husband to the supermarket, saying, "buy a bottle of milk, and if they have eggs, buy 12." The husband goes to the supermarket, sees that they have eggs, and comes back with 12 bottles of milk.[7]

Machines love specificity. Any ambiguity will work against you. Don't ask AI "what are the cases where assault was acceptable" when you are looking for cases to reference. More precise wording like "what are the *legal cases* where assault was *legally* acceptable *under English law?* Limit your response to ones where *the Criminal Justice Act 2003* applies." Oftentimes, when we are working on something, we develop a train of thought and a certain context in our heads, so we formulate our questions within that context. The machine, however, cannot read our minds.

Keep the tasks small

AI is much more reliable for smaller tasks than for a single large task. With a single prompt, you can ask it to write a whole book, a chapter, or a paragraph. The book will quickly devolve into nonsense, the chapter will not fare much better, but a paragraph may be quite consistent and well written. If you ask the AI to perform one large task, you usually end up spending a lot more time fixing it. Divide your task into smaller tasks, so that you may have a better-quality output and more control over the end result.

Instead of having it produce a whole case submission, ask it about applicable legislation and case law. Instead of asking it to summarize an entire case, ask it to identify the main issue(s) and then proceed from there. Work with AI in steps that you can follow and control.

Is AI helping you, or are you helping AI?

Two different approaches to AI are emerging among companies. Some companies hope to replace their workforce with AI, while others think of it as a tool to improve employees' performance. In the first instance, the work would be done by AI, while some human employees are kept to make sure it works and likely take the blame if it does not. Here, the AI is on the wheel, while the humans are behind pushing the car. In the latter instance, human employees do the work and utilize AI to delegate certain tasks, mostly grunt work.

You can have a sense of the same in your usage of AI. Are you just following along, helping AI do the work? Or are you the driving force in this

[7] To a machine, the instructions literally read as such: (1) buy milk (2) if eggs exist → then buy 12 (of the item you were asked to buy = milk).

relationship? I don't think I need to spell out which one is better for you.

Make sure you learn the skills

Remember the calculator? Now think about two different people, one with no math skills and another with advanced math knowledge. Which one do you think can make better use of a calculator? Even though everyone has a calculator at their fingertips, not everyone can calculate the monthly payments of a loan with interest, but a calculator sure comes in handy if you already know how to do it yourself.

This is the same with AI. Yes, you might have constant access to it, even after you graduate and start working. But your legal skills will determine how best you can make use of it. That is what will separate you from all the rest.

In such an environment, a good lawyer will be even more valuable. A better understanding of law and legal theories will set you apart, even more so in conjunction with AI. Learn to delegate some tasks to AI, but don't delegate the task of learning.

Such skills are even more important as AI use gets more prevalent. Remember the lawyers who got a warning for using AI? How do you think they got caught? They got caught by judges and lawyers who knew what they were doing. Not superhuman beings who knew all the legislation and case law by memory, but ones who knew the law well enough that they could intuitively notice such critical mistakes.

The Future of AI

Proponents of AI claim that, with enough data and training, the technology will eventually produce perfect, error-free responses. The reality is far more complex. The way these technologies work, the closer a model gets to perfection, the harder further improvements become, even if you feel really close to the complete solution. It is the very nature of AI that makes it so, since developers have no direct control over the final output and can only train the model repeatedly, hoping for incremental gains. Think of an Olympic runner, training for a 100m run. When they first start training, they increase their speed significantly, taking away seconds from their time. But as they get closer to the Olympic record, even mere milliseconds become a huge achievement.

Elon Musk recently learned this the hard way with a fully self-driving feature in Tesla cars. When Tesla first hit the market, its assisted driving feature was a game-changer. In 2015, Musk said that fully self-driving cars were two years away from being a reality.[8] Since then, he has quite regularly claimed it is just a year or so away.[9] Fully self-driving cars have been "less than two years away" for about ten years now. And after ten years, several lawsuits, and a final administrative action, Tesla had to accept that it could not deliver autopilot in the foreseeable future.[10]

While it is impossible to predict the future, I can make an educated guess. AI won't fix everything overnight, but it is not going anywhere either. It is a tool like any other, and we should use it, like any other, to ease our lives.

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[8] Korosec, K. (December 21, 2015). *Elon Musk Says Tesla Vehicles Will Drive Themselves in Two Years*. FORTUNE. https://fortune.com/2015/12/21/elon-musk-interview/.
[9] See this compilation of his 'tweets' on the matter: bladerskb. (May 7, 2021) https://www.reddit.com/r/SelfDrivingCars/comments/n6nsmt/comment/gx8kure/.
[10] Stumpf , Rob. (February 18, 2026). *Now We Know Why Tesla Killed Autopilot*. InsideEVs. https://insideevs.com/news/787656/tesla-autopilot-california-dmv-marketing/.