



FROM SANCTIONS IMPLEMENTATION TO ENFORCEMENT

CIFAR RESEARCH PAPER



This publication was made possible thanks to the support of:



FROM SANCTIONS IMPLEMENTATION TO ENFORCEMENT

LEGISLATIVE, POLICY AND PRACTICAL TOOLS TO ENFORCE ASSET FREEZING SANCTIONS

Paper prepared by Lucia Cizmaziova, Clara Czuppon and Jackson Oldfield (CiFAR). The authors have made reasonable steps to ensure that the content is accurate.

CiFAR - Civil Forum for Asset Recovery e.V. and the authors are solely responsible for the contents of this publication.

Published: 2024, CiFAR – Civil Forum for Asset Recovery e.V.
CiFAR – Civil Forum for Asset Recovery e.V.
Köpenicker Str. 147, Berlin, Germany, cifar.eu

Cover picture: provided by Pixabay through a Pixabay Licence for free commercial usage without attribution.

CONTENTS

■ EXECUTIVE SUMMARY	1
■ INTRODUCTION	3
■ ENFORCEMENT OF ASSET FREEZING SANCTIONS	5
■ NATIONAL FRAMEWORKS FOR THE ENFORCEMENT OF ASSET FREEZING SANCTIONS	17
■ CONCLUSIONS & RECOMMENDATIONS	33
■ REFERENCES	36

GLOSSARY

The following definitions should be understood within the context of this report as they can vary across different jurisdictions.¹

Asset freezing is the temporary prevention of the transfer, disposition, or movement of an asset imposed by a competent authority. It is typically used to prevent criminals from accessing and using their assets while an investigation is ongoing or while they are awaiting trial. Financial sanctions imposed on private individuals also very often take the form of an asset freeze.

Confiscation is the permanent deprivation of property by order of a court or other competent authority. It is typically used after a criminal conviction, and it can be used to punish the defendant, deter crime, and compensate victims.

Financial sanctions are measures imposed on private individuals and companies, which very often take the form of an asset freeze. These are imposed independently of any criminal or civil proceedings.

Forfeiture is the transfer of ownership of an asset from an individual to the government. It is typically used in cases where the property is directly linked to a crime, such as corruption, the drug trade or the proceeds of tax evasion.

Seizure is the physical appropriation of property (including cars, yachts, or artwork) by a law enforcement agency. It is typically used to prevent criminals from destroying or disposing of evidence, to protect victims, and to ensure that assets can be forfeited or confiscated if the defendant is convicted.

EXECUTIVE SUMMARY

In the aftermath of the Russian invasion of Ukraine, many countries faced challenges in acting swiftly to implement the unprecedented number of sanctions, including asset freezes, imposed against Russian individuals and entities. As the speed of the adoption of new sanctions packages has slowed down, attention has moved towards questions over the implementation and enforcement of these sanctions.

Several investigations have shown the legislative and policy loopholes and implementation and enforcement gaps that have been taken advantage of by individuals and businesses to evade these sanctions since 2022.² Better understanding how sanctions can be effectively implemented and enforced is, therefore, of great relevance today both for the Russian sanctions and beyond. In the field of asset recovery, the implementation and enforcement of anti-corruption sanctions is of particular importance.

To evaluate and understand the mechanisms for the enforcement of sanctions, this study provides a comparative look at how enforcement is being carried across key jurisdictions. In so doing, it is a companion to [From Sanctions to Investigations](#), our report published in 2023 looking at sanctions implementation and the link between sanctions and asset recovery, as well as the [policy recommendations](#) that came out of this report in 2024.

This second report highlights several important elements when it comes to the enforcement of sanctions through both a review of the literature and through laying out the institutions, penalties and actual enforcement of sanctions across jurisdictions in Europe and North America.

As in previous work we and others have carried out, it reiterates the importance of linking sanctions to asset recovery. When sanctions are placed on persons or entities who are believed to be involved in the misappropriation of public money, sanctions should not be the end goal. Rather, there should be consideration of whether originating crimes could be prosecuted or whether crimes occurred in the introduction of those assets into the sanctioning jurisdiction.

For that to be a consideration, sanctions need to be effectively implemented and enforced. States are likely to find challenges in this enforcement due to the methods sanctioned persons go to in order to disguise ownership so that they can continue to use assets that should be frozen or seized. This includes techniques similar to those used by corrupt actors in hiding money more broadly, such as using hidden ownership structures, transferring assets to non-sanctioned family members and associates prior to designation, avoiding thresholds for automatic declarations / suspicious transaction reports, and removal of assets before designation to jurisdictions unlikely to sanction.³ An additional challenge may come from complexities within sanctioning regimes and changes to those regimes, making it harder for private actors to effectively ensure assets of designated persons are frozen.

Legislation and policy that allow for these loopholes needs to be revised so that sanctions are more effective. Further, looking across the eight jurisdictions considered, plus EU reforms, there are several steps that could be taken by governments to strengthen enforcement itself, building on the approaches that have already been taken, to ensure compliance with sanctions.⁴

RECOMMENDATIONS

- Ensure robust legislation and policies are in place that foresee, and address, techniques used to evade sanctions, such as checking for and being able to prosecute unexplained transfers of ownership or to other jurisdictions prior to designation;
- Properly resource and staff institutions responsible for enforcing sanctions and implement requirements to report publicly and regularly on enforcement actions taken;
- Address the surrounding structures, including around secrecy in company ownership, that undermine efforts to enforce sanctions through legislation, policy and institutions;
- Review legislation to ensure coherence with other jurisdictions' sanction evasion laws and policies and consider the introduction of civil enforcement routes, where not currently existing;
- Work with other jurisdictions, including those not sanctioning, to ensure that they cannot be used as a safe haven for sanctions evasion;
- Consider linking the imposition of fines and assets confiscated as part of sanctions enforcement actions to the victims of crimes related to the sanction designation. Where anti-corruption sanctions are in place, consideration should be given to the disbursement of fines to the people of the country where the corruption occurred;
- Review sanctions enforcement legislation and policy in light of the Civil Society Principles on Sanctions and Asset Recovery and other best practice standards;
- Address the use of strategic lawsuits against public participation (SLAPPs) and implementing protection for journalists, civil society and citizen activists engaged in public work from the threat of litigation, currently being used to avoid scrutiny over actual and potential sanctioned assets.

INTRODUCTION

Asset freezing sanctions are a type of sanction that temporarily restrict access to bank accounts and other assets. Asset freezing sanctions can be applied to individuals, corporate entities and States as a whole. For the purposes of this publication, only asset freezes concerning individuals and corporate entities are discussed.⁵

In practice, the imposition of sanctions then typically means that any assets, be it financial assets, moveable or immovable property or other, cannot be made available to the individual or entity, nor can they benefit from them in the form of receiving rents, for example.⁶ The assets are frozen and unusable except for specific purposes while the sanctions are in place. This process does not, however, mean that assets are permanently confiscated or change ownership.⁷

Individual asset freezes are a highly targeted, specific subset of sanctions. There are many different forms of sanctions, which range from such targeted or “smart” measures, to broader diplomatic, economic and trade embargoes imposed on whole sectors of trade, economic or cultural activity. Over the years, there has been a shift from broad economic sanctions towards these targeted sanctions that address the wrongdoing of a certain group, individual or a business entity. This evolution is a result of evidence that wide economic sanctions imposed on a country as a whole can inflict substantial harm on the general population, with the aim with individual asset freezes being to target and impact only the group of responsible individuals, often the ruling elite itself.⁸

Traditionally, sanctions regimes have been designed and organised as ‘country’ regimes, which designate individuals suspected of wrongdoing linked to a particular jurisdiction. For instance, the EU imposed targeted asset freezes through a country-level regime during Egypt’s political revolution in 2011. With the rise in targeted sanctions, there has, however, been an increased use of ‘horizontal’ sanctions lists, which do not refer to a specific country, but rather target individuals and entities based on a thematic principle, such as their involvement in grand corruption, human rights abuses or cybercrime. These horizontal sanctions regimes do not make an explicit link to a country and are particularly suitable for tackling transnational challenges, such as corruption.⁹

Asset freezing sanctions, like sanctions in general, have diverse objectives. Some key overarching objectives usually mentioned in the literature are:

1. to change the behaviour of the target,
2. to disrupt the target’s malicious activities, and
3. to signal disapproval by the sanctioning jurisdiction.¹⁰

Objectives related to this include whether sanctions are intended to force change, affect domestic policy or international reputation, or uphold international norms and order.¹¹

In previous research, we have examined the link between the imposition of these asset freezing sanctions, implementation of these sanctions and investigations into the potential criminal origin of sanctioned

assets.¹² In this research paper we turn to the issue of sanctions enforcement and look at the ability of key sanctioning jurisdictions to ensure that sanction regimes are properly complied with, current challenges in sanctions enforcement and the relationship between sanctions enforcement and asset recovery.

We do this across several sections:

- » **Section 1** explores the enforcement of asset freezing sanctions. Starting with a discussion of the importance of sanctions to asset recovery, it then looks at obstacles in linking sanctions to asset recovery, before turning to why enforcement of sanctions is important and how key jurisdictions are doing this. It then reflects on challenges in enforcing sanctions and how effective sanctions enforcement can contribute to asset recovery.
- » **Section 2** comprises of a discussion of how eight jurisdictions enforce sanctions. Looking at institutions, penalties and enforcement actions, it provides detail on how sanctions are enforced and the consequences for sanctions evasion in Canada, France, Germany, Italy, Spain, Switzerland, the UK and the US. It also reflects on EU reforms introduced in 2024.
- » **Section 3** concludes the paper with the findings of the report and makes recommendations for strengthening sanctions enforcement mechanisms that apply broadly to any jurisdiction implementing sanctions.

ENFORCEMENT OF ASSET FREEZING SANCTIONS

Sanctions enforcement is an important area of the implementation of sanctions. It involves ensuring that asset freezes and other aspects of sanction designations are complied with by private actors through the use and potential use of actions by law enforcement authorities to penalise sanction evasion.

In this section the reasons why sanctions are important to asset recovery are considered, as well as obstacles in linking sanctions to asset recovery, why enforcement of sanctions is important and how key jurisdictions are doing this. It then turns to challenges in enforcing sanctions and how effective sanctions enforcement can contribute to asset recovery.

WHY ARE SANCTIONS IMPORTANT TO ASSET RECOVERY?

International targeted sanctions play a role in asset recovery by enabling foreign governments to take action against the assets of individuals in power or protected within their home countries. In many cases, domestic prosecution is impossible due to political or legal influence. Therefore, sanctions provide a mechanism for freezing such assets abroad, even when domestic legal action is unfeasible. They allow governments to take proactive measures by preventing suspected corrupt officials from moving assets out of their jurisdiction, even before an official request is made by the country where the crime took place.¹³

Over the past decade, sanctions have evolved from being seen merely as temporary foreign policy tools to becoming potential precursors for permanent asset forfeiture through judicial processes.¹⁴ This shift has been particularly notable in cases where sanctioned assets are suspected to be derived from corruption or other criminal activities. Sanctioned assets are often subject to administrative investigations that probe the legitimacy of their origins. If these investigations uncover signs of corruption, law enforcement agencies can initiate criminal investigations, which may lead to legal proceedings aimed at recovering assets that fall into three broad categories:

assets linked to sanctions violations, assets tied to broader criminal activities, and unexplained wealth.

The international response to Russia's invasion of Ukraine has underscored the need for more robust mechanisms to identify and confiscate sanctioned assets. This has sparked innovation in sanctions policy and enforcement, driving both national and international efforts to expedite asset recovery. Notable initiatives include the U.S. KleptoCapture Task Force¹⁵ and the European Union's Operation OSCAR. These programs are designed to enhance the investigation and seizure of frozen assets. Operation OSCAR,¹⁶ launched in 2022, exemplifies these efforts by cross-referencing databases from Europol, Frontex, and Eurojust to detect criminal links to sanctioned assets, support investigations, and facilitate their confiscation. By 2023, the operation had already initiated 84 cases, according to sources.¹⁷

Ultimately, sanctions can serve as a powerful tool in asset recovery by freezing illicit assets, enabling investigations, and laying the groundwork for legal actions that can lead to their permanent confiscation, particularly when linked to corruption or criminal activity.

WHAT ARE THE ISSUES IN LINKING SANCTIONS TO ASSET RECOVERY?

Despite the potential of sanctions to aid asset recovery, significant obstacles remain in transforming temporary sanctions into the permanent confiscation of illicit assets. Law enforcement authorities across various jurisdictions have the legal tools to pursue sanctioned assets when there is evidence of criminal origins. However, the rate of investigations triggered by international sanctions remain low.

A major challenge lies in the absence of clear legal frameworks and incentives that would encourage authorities to actively investigate sanctioned assets. While sanctions are increasingly seen as a gateway to asset recovery—particularly in the wake of Russian sanctions—many key jurisdictions have yet to implement the necessary measures to link them to asset recovery. Sanctions without proper investigations often result in the de-listing of the individual and the release of all assets, as it has been the case for the Egyptian former ruling family.¹⁸ Moreover, effective asset recovery often requires transnational collaboration, which is hampered by differing legal standards and complicated cooperation between financial regulators, tax authorities, and law enforcement across borders.¹⁹

Collaboration with the country of origin of sanctioned individuals is also crucial but can pose significant challenges to the asset recovery process. Establishing a criminal conviction in the home country can be particularly difficult, especially where sanctioned individuals remain in power or hold significant influence. In such cases, domestic legal proceedings in the country of origin may be prolonged or obstructed, while sanctions themselves are often temporary measures. Additionally, some

regimes view sanctions as non-transparent or as foreign interference, leading them to disregard international efforts, further complicating cooperation and the potential for successful asset recovery.²⁰

Detecting and tracing sanctioned assets can also be extremely challenging, as kleptocrats and corrupt actors are often highly adept at hiding the origins of their wealth. They frequently use complex networks of shell companies, offshore accounts, and opaque financial structures to obscure their ownership and involvement, making it difficult for investigators to establish a clear link between assets and illicit activities. This sophisticated evasion complicates the efforts of both national and international authorities, who must sift through layers of financial secrecy to uncover the true ownership of frozen assets and gather sufficient evidence to trigger legal proceedings.

WHY IS ENFORCING SANCTIONS IMPORTANT?

Anti-corruption sanctions alone are insufficient to tackle kleptocracy and should not be viewed as an end in themselves. According to the Civil Society Principles on the Use of Anti-Corruption Sanctions as a Tool for Asset Recovery,²¹ developed in collaboration with civil society organizations focused on asset recovery, it is crucial that the imposition of anti-corruption sanctions be linked, through law or policy, to the initiation of investigations by law enforcement into the origins of the sanctioned wealth, as well as to clear guidelines for the private sector, the publication of transparent property registers, and other means of enforcement.²² Without such follow-up actions, sanctions risk becoming merely temporary diplomatic tools with no lasting impact, thereby diminishing their deterrent effect.

Consistent and robust enforcement of sanctions is also essential to prevent circumvention or evasion.²³ Breaches of sanctions should incur criminal or administrative penalties; otherwise, the sanctions lose their effectiveness. Coordinated enforcement across jurisdictions is key because individuals or entities under sanctions may seek to exploit legal loopholes by moving their operations to countries with weaker enforcement. As highlighted in our collaborative Russian Escape investigation, published in 2023, when governments fail to enforce international sanctions, they may signal tolerance for financial flows from dubious sources. This investigation underscored, for example, the urgent need for better information-sharing on sanctioned assets.²⁴ Without such transparency, some countries risk becoming hotspots for sanctions

evasion, particularly where public oversight is lacking.

Moreover, when implementing anti-corruption sanctions, law enforcement authorities should plan to transition from sanctions to investigations, prosecutions, and eventually, asset recovery. By initiating criminal investigations into the origins of assets under sanction, authorities can aim to confiscate tainted assets or repurpose fines collected from sanctions evasion to benefit the victims of the underlying crimes. Such measures would not only enhance the effectiveness of sanctions but also contribute more broadly to efforts for accountability and justice.²⁵

CIVIL SOCIETY PRINCIPLES ON THE USE OF ANTI-CORRUPTION SANCTIONS AS A TOOL FOR ASSET RECOVERY

1. Sanction regimes specifically designed to tackle corruption should be established, effectively implemented and monitored. Where appropriate, they should be implemented in coordination with other jurisdictions.
2. Anti-corruption sanctions alone are not enough to address kleptocracy. The imposition of anti-corruption sanctions needs to be linked through law or policy to the opening of investigations by law enforcement into the origins of sanctioned wealth. Investigations should take place in the sanctioning jurisdiction and, where applicable, the country requesting the imposition of sanctions. The opening of an investigation in the sanctioning jurisdiction should be irrespective of the opening of an investigation in the jurisdiction where the corruption is alleged to have taken place. As part of this, on implementing anti-corruption sanctions, law enforcement authorities should set out plans to move from sanctions to investigations, prosecutions, and eventual asset recovery.
3. Requests from the jurisdiction where the alleged corruption took place should not lead automatically to the closure of investigations into criminality in the sanctioning jurisdiction. This should be the case even where sanctions have been imposed on the request of that jurisdiction. Assessments should be made that address the likelihood of the alleged corruption leading to a criminal conviction in the jurisdiction where the corruption took place and any lifting of sanctions should be taken on the basis of assisting a conviction consistent with the rights of the defense and the principle of a fair trial elsewhere.
4. Criteria should be established for the designation or lifting of anti-corruption sanctions to avoid political interference in this process. This should include transparent designation criteria and a commitment to apply sanctions consistently. Designations should be public and published in a timely manner. They should include as much background information on the designation as possible within the remit of ongoing investigations. Court decisions and confiscations relating to those sanctions should be published.
5. Provision should be made to engage with independent civil society organizations in both the sanctioning jurisdiction and the jurisdiction where the corruption occurred throughout the process. Any reasoned request from civil society for the imposition of anti-corruption sanctions in relation to a given person should be followed by an appropriate examination and responsible authorities should provide a reasoned response within a reasonable timeframe.
6. Information should be publicly disclosed on aggregate amounts frozen under anti-corruption sanctions regimes to allow for public and civil society oversight over the implementation of sanctions regimes.
7. Anti-corruption sanctions should be effectively implemented, and measures should be in place to monitor and enforce compliance. Institutions or agencies should be assigned or established to oversee the effective implementation of anti-corruption sanctions and respond to breaches. These institutions should be properly resourced. Breaches of anti-corruption sanctions should incur penalties commensurate with their severity.
8. The imposition of sanctions should be linked to a broader anti-corruption strategy in the sanctioning jurisdiction and in the jurisdiction where the corruption occurred to reduce the need for sanctions in the long term.

SANCTIONS ENFORCEMENT IN KEY JURISDICTIONS

For this report, we closely examined how eight key national jurisdictions enforce international sanctions, as well as the EU. This examination revealed varying levels of enforcement powers, institutions and issuance of penalties for non-compliance.

Overall, while some countries have robust systems in place and are taking strides to ensure that sanctions are enforced, there is work to do in many countries to ensure that sanctions are effectively enforced. There are also clear differences in how the eight jurisdictions enforce sanctions, paving the way for some jurisdictions to be viewed as less stringent on sanctions evasion by persons looking to house potentially illicit assets.

ENFORCEMENT INSTITUTIONS

All eight jurisdictions have legislation in place and institutions to enforce sanctions breaches. The most well known of these is likely the US Department of the Treasury's Office of Foreign Assets Control (OFAC). OFAC has been actively engaged in monitoring for breaches and has issued fines against financial institutions, companies, and manufacturers for sanctions breaches. Its mandate extends to prosecuting non-US companies and banks that use US financial institutions for payments related to US sanctions.²⁶ Similar specific sanctions enforcement agencies exist in the UK and Germany. In the UK sanctions are jointly enforced by Office of Financial Sanctions Implementation (OFSI) and the National Crime Agency (NCA). OFSI has the mandate to impose civil penalties,²⁷ while the NCA has the power to institute criminal proceedings to enforce sanctions compliance.²⁸ In Germany, the Central Office for Sanctions Enforcement

coordinates the work of the authorities and institutions around sanctions enforcement, investigates frozen assets and enforces asset freezing orders,²⁹ while the public prosecutor's office is responsible for investigation and prosecution of sanctions offences.³⁰

In other jurisdictions, non-sanctions specific government agencies have the mandate to enforce sanctions. In Canada, sanctions enforcement is conducted by the regular law enforcement authorities, with the Royal Canadian Mounted Police and the Canada Border Services Agency responsible for enforcing sanctions, and prosecutions conducted by the Public Prosecution Service of Canada.³¹ A stand alone agency should however be established by 2025.³²

In France, the Ministry of Economy and Finance is responsible for taking decisions to prosecute cases where sanctions are breached and directs the case to the competent Prosecutor,³³ while in Italy it is the Guardia di Finanza (Financial Police) which are primarily responsible for investigating sanctions violations.³⁴ In Spain, the General Secretariat of the Treasury and International Finance can implement a freeze of the corresponding assets in case of sanctions infringement,³⁵ while the police and Guardia Civil can investigate and refer cases to the public prosecutor.³⁶ In Switzerland the State Secretariat for Economic Affairs (SECO) monitors and enforces compliance, with the authority to investigate and take action against breaches of sanctions.³⁷

Some jurisdictions have also established specific task forces to enforce specifically the Russian sanctions. In France, for example, a designated task force was

created in 2022 to freeze and seize assets of targeted individuals.³⁸ The Ministry of Economy and Finance and Ministry of Justice were tasked under this with identifying legal opportunities for confiscation of those assets.³⁹

The EU's Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673⁴⁰ – the so-called Sanctions Enforcement Directive – will introduce a common framework for sanctions enforcement in the EU. As part of this, it requires EU Member States to designate an authority responsible for coordinating with other European law enforcement bodies responsible both for implementing EU sanctions and for ensuring cooperation between Member State bodies and European law enforcement agencies, such as Europol and the European Public Prosecutor's Office (EPPO).⁴¹

PENALTIES

Consequences imposed for sanctions violations include **criminal penalties** for most jurisdictions looked at.

Canada sets differing penalties for violations of the United Nations Act and Special Economic Measures and Justice for Victims of Corrupt Foreign Officials Acts, ranging from fines of up to between CAD 25,000 – 100,000 (EUR 16,000 – 66,000) and prison terms of up to between 1 and 10 years.⁴² France has criminal penalties for violations of international sanctions of up to 5 years of imprisonment, confiscation of related goods and fines of up to EUR 5 million.⁴³ Legal persons can also be punished with a fine of up to 10 times the transaction value that infringed the sanction.⁴⁴ Germany has criminal penalties for intentional violations of up to 10 years,

as well as up to EUR 10 million in fines for legal persons and confiscation of profit from transactions involved.⁴⁵ In Italy criminal penalties for intentional violations can result in up to six years imprisonment and a maximum fine of EUR 250,000,⁴⁶ while in the UK criminal penalties are a maximum of 7 years imprisonment and / or an unlimited fine.⁴⁷ In Switzerland the maximum penalty for serious cases is up to five years' imprisonment or a fine of up to CHF 1 million⁴⁸ (EUR 1 million). In the US intentional criminal sanctions violations can result in up to USD 1 million per violation and/or up to 20 years' imprisonment.⁴⁹ Spain does not currently criminalise sanction violations.⁵⁰

Civil penalties also exist in most jurisdictions.

Canada has had civil penalties available for sanctions violations since July 2024. These can range from CAD 1 for minor infringements to CAD 500,000 (EUR 333,000) and are brought by the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).⁵¹ When not intentional, authorities in Germany can impose civil penalties of up to EUR 500,000. It is also possible to exceed this limit if that would be the only way to exceed the economic benefit derived from the violation.⁵² Administrative penalties in Italy have a maximum fine of EUR 500,000, confiscation of the goods unlawfully exported/imported, and/or suspension or revocation of licenses and other permits held by the company.⁵³ In Spain, civil fines can be the greater of 10 per cent of the total annual turnover of the obliged party, twice the economic content of the transaction, five times the amount of the profits derived from the infringement, where such profits can be determined, or EUR 10 million.⁵⁴ The maximum civil penalty in the UK is GBP 1 million (EUR 1.2 million) or 50% of the value of the breach, whichever is greater. A deduction of usually between 30 - 50% of that determined amount can

be made for voluntary disclosure, varying based on the severity of the case.⁵⁵ Civil penalties have been made on a strict liability basis since June 2022⁵⁶ – meaning that liability is established with the action itself and without the need to prove intent or fault. In the US penalties under civil law can be up to the higher of either twice the value of the transaction that underlay the violation or a sum of approx. USD 350,000 per violation.⁵⁷ France and Switzerland⁵⁸ do not have civil penalties for sanctions violations.

The EU's 2024 Directive will require Member States to criminalise a range of conduct relating to the violation and circumvention of EU sanctions, including failing to freeze assets, providing prohibited or restricted economic and financial services, transferring funds that should be frozen to a third party or providing false information to conceal funds that should be frozen.⁵⁹ It also requires the institution of 'effective, proportionate and dissuasive criminal penalties' for those offences and sets a range of imprisonment maximums that should be established in the law dependent on the type and severity of the breach⁶⁰ and penalisation of legal persons, such as companies. Legal persons will need to be penalised in fines totalling at least a maximum of 5 % of the total worldwide turnover or an amount corresponding to EUR 40 million.⁶¹

ENFORCEMENT ACTIONS

Enforcement actions are not universally reported on across the jurisdictions looked at. Examples where there is information on amount of enforcement actions in relate to sanctions violations include:

- In Germany, three apartments and one bank account belonging to a Duma deputy and his wife were seized in 2022. The bank account kept on receiving the profits from

the rent of the apartments despite the sanctions, which triggered an investigation from the Bavarian authorities.⁶² A Northern German company was fined EUR 1.3 million in March 2023 for selling a machine to Russia, thereby violating the sanctions.⁶³

- Switzerland has reported on enforcement actions in relation to the Russian sanctions: as of July 2024, 50 investigations into possible violations had been opened, 15 of which had been confirmed breaches and led to penalties.⁶⁴
- The UK's OFSI reports on actions it has decided to publicise as part of its sanctions enforcement. As of October 2024 ten actions are listed, with the latest being from September 2024.⁶⁵ The website highlights the company name, sector, the penalty applied and the regulations in question.⁶⁶
- As of October 2024, the US' OFAC Enforcement Actions webpage notes 273 recent actions, with details provided of the sanctions regime violated or suspected of having been violated, judgements or settlements and amounts involved.⁶⁷

The current state of sanctions enforcement in key jurisdictions reveals a mixed picture. While steps are being taken toward more unified and comprehensive enforcement, significant differences in approach and legal frameworks remain. It is also unclear the extent to which enforcement is taking place in practice, with few jurisdictions comprehensively reporting on amounts of enforcement actions taken, against whom and for what.

CHALLENGES IN SANCTIONS ENFORCEMENT

Beyond these differences in legislation, policies and institutions used to address sanctions evasion, there are also several factors that can often complicate the enforcement of sanctions and which need to be addressed in order to ensure that sanctions can be successfully enforced.

HIDDEN OWNERSHIP STRUCTURES

Designated individuals and entities can benefit from disguised or hidden ownership structures to evade sanctions. Examples from several jurisdictions exist of sanctioned individuals using complex systems of shell companies and trusts to hide money or asset ownership, that would otherwise be subject to sanctions.⁶⁸

TRANSFERS TO FAMILY MEMBERS AND CLOSE ASSOCIATES

The transfer of assets to family members before sanctioning, or of hidden assets after sanctioning, is another technique that has been used to evade sanctions by designated individuals. This can be done through directly transferring the asset, such as putting property in a family member or associates name before designation, or through registering companies and trusts in their names.⁶⁹

AVOIDING DECLARATION THRESHOLDS

A further technique used to evade sanctions is to reduce ownership to levels that do not require automatic reporting. This could be, for example, reducing company ownership to below levels required for declaring owners, with remaining shares being transferred to associates, family members or further shell

companies ultimately controlled by the sanctioned individual.⁷⁰

REMOVAL TO PERMISSIVE JURISDICTIONS

Persons subject to sanctions may also attempt or be able to move assets which should be subject to sanctions in one jurisdiction to another with either higher levels of secrecy to further disguise ownership or where sanctions are not in place.⁷¹

LITIGATION

Although not only a tool of sanctions evasion, litigation can also be used as a tool by sanctioned individuals to avoid their assets being frozen under sanctions regimes. In particular this can be the case when sanctioned persons deploy litigation against journalists or civil society investigating potential sanctions evasion. The use of strategic lawsuits against public participation (SLAPPs) can deter journalists from publishing stories on sanctions evasion, thereby giving sanctioned persons more room to hide assets.⁷²

COMPLEXITY

Several professional consulting agencies have highlighted that the complexity of sanctions regimes and the changes made to sanctions, as well as the difficulties in operating across different names, naming conventions, alphabets and languages as challenges in enabling them to effectively implement sanctions.⁷³

THE RUSSIAN ESCAPE INVESTIGATIONS

Between autumn 2022 and June 2023 CiFAR and European Investigative Collaborations, with the support of OCCRP and thanks to IJ4EU and the National Endowment for Democracy, coordinated the Russian Escape investigations into how far sanctions applied against Russian individuals following the invasion of Ukraine were being effectively implemented in Europe.

These sanctions are designed to prevent designated persons or entities from using their assets – be it money, property, cars or yachts – or transferring them overseas. In effect, freezing in place all assets of designated individuals and entities until the sanctions are lifted. CiFAR's previous work on sanctions, however, led us to believe that implementation of these sanctions might not be effective or that loopholes in the frameworks may be allowing sanctioned persons to escape designations.

The investigations, published by Mediapart (France), Info Libre (Spain), and Domani (Italy), showed that it is likely sanctions are in several cases failing to fulfil their purpose. A particular problem in this is the ongoing use of assets supposed to be frozen and the transfer of other assets to family members before designation. The investigations also demonstrated the high levels of discrepancy between European countries in how frozen assets are publicly reported – making it harder for journalists, civil society and citizens to monitor sanctions implementation. In doing so, our investigations for the first time identified the EUR 3 billion in assets currently frozen in Italy and Spain under the Russian sanctions.

Read more: cifar.eu/russianescape

SANCTIONS ENFORCEMENT AND ASSET RECOVERY

Despite these challenges, when done right, enforcing sanctions can also be a tool for asset recovery. Specifically, the question of whether fines for sanctions breaches should have a direct link to asset recovery or reparations for the victims of harm or corruption has been considered in recent years.

The strongest argument for a link between sanctions enforcement and reparations has been made in the context of the Russia sanctions and the victims of Russian aggression in Ukraine. Work by Redress, amongst others, has argued that fines imposed by UK agencies in relation to sanctions on Russian oligarchs should be directed to Ukraine reconstruction funds rather than being kept by the UK.⁷⁴

» **Case study: Petr Aven enforcement action in the UK**

In July 2024, the UK's National Crime Agency (NCA) reported that it had recovered almost GBP 800,000 (circa USD 1 million) after an enforcement action in relation to the sanctioned Petr Aven. Aven was sanctioned in March 2022 for his alleged support for the Russian government in his role as a director of Alfa Bank (Russia) and his alleged ties to Putin. Shortly before the UK announced sanctions against him, the GBP 800,000 was transferred to a UK bank account controlled by Aven's assistant. The NCA argued that this was designed to circumvent anticipated sanctions and recovered the money.⁷⁵

After recovery, UK authorities are understood to be transferring the

money to the UK's Asset Recovery Incentivisation Scheme (ARIS), which distributes recovered assets to the agencies involved and UK central government. Redress argued that these funds should be then reallocated from ARIS to survivors in Ukraine. Their suggestion is to consider transferring the funds to one of three specific funds that the UK is already supporting,⁷⁶ after consultation with persons "working within the existing reparation landscape for Ukraine, survivors and civil society".⁷⁷

» **Case study: US transfer of forfeited funds to Ukraine**

In May 2023, US Attorney General Merrick Garland authorised the transfer of USD 5.4 million from the US to Ukraine in assets forfeited from Konstantin Malofeyev. Malofeyev is a media tycoon who is strongly believed to have provided financing for both the 2014 uprisings in Ukraine and 2022 Russian invasion. He has been under sanctions by Western governments since 2014.⁷⁸

The US alleged that Malofeyev tried to evade US sanctions through working with co-conspirators to clandestinely purchase media organizations in Europe. Authorities traced this sanctions evasion to a US financial institution bank account and seized the money. Rather than keeping the seizure, the US decided to transfer the money to the reconstruction of

Ukraine, arguing that this would be the first of several such processes for sanctions evasion.⁷⁹

Outside of the context of Russia however and this has not seen a large debate. It is missing in particular from discussions on anti-corruption sanctions, where fines imposed and assets confiscated due to sanctions breaches could be part of a process of repatriating assets to the country where the corruption occurred and compensating the victims of that corruption.

**NATIONAL
FRAMEWORKS
FOR THE
ENFORCEMENT OF
ASSET FREEZING
SANCTIONS**

Several jurisdictions have sanction regimes and enforcement laws and policies in place for those sanctions. This section provides a detailed look at how this is done in jurisdictions that have played a particularly important role in the recent sanctions imposed after the Russian invasion of Ukraine.

Looking at institutions, penalties and enforcement actions, it provides detail on how sanctions are enforced and the consequences for sanctions evasion in Canada, France, Germany, Italy, Spain, Switzerland, the UK and the US. It also includes detail on the 2024 EU reforms to sanction enforcement.

CANADA

Institutions

Canada has enacted legislation authorizing the imposition of sanctions by its Ministry of Global Affairs, through the United Nations Act, and its autonomous sanction legislation: the *Special Economic Measures Act*, and the *Justice for Victims of Corrupt Foreign Officials Act*.⁸⁰

The *United Nations Act*⁸¹ allows Canada to implement sanctions issued by the UN. The *Special Economic Measures Act*⁸² enables Canada to impose sanctions in response to serious breaches of peace, security, human rights, or to an act of corruption by officials from a foreign state, or to a call from an international organisation to take economic measure against a foreign state. Since 2017, Canada can further implement targeted sanctions under the *Justice for Victims of Corrupt Foreign Officials Act*,⁸³ Canada's version of the Magnitsky Act, against individuals who are involved in serious human right abuses or in acts of significant corruption. The sanction regimes provide for asset freezes and other measures. Additionally, the *Freezing Assets of Corrupt Foreign Officials Act*⁸⁴ can be used to provide a form of assistance to another State —that is, to freeze the assets of certain politically exposed persons at the request of another country going through a political crisis.

The implementation of international sanctions in Canada is established under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and administered by the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). This agency produces strategic intelligence on the nature and scope of money laundering and terrorist activity financing. Every reporting entity in the financial sector is required to report any suspicious transaction to FINTRAC.⁸⁵

The Royal Canadian Mounted Police (RCMP) and the Canada Border Services Agency enforce sanctions and associated regulations, with prosecutions conducted by the Public Prosecution Service of Canada ("PPSC").⁸⁶ The creation of a Canadian Financial Crimes Agency has been a project of the Liberal Party and should be implemented before 2025.⁸⁷

Penalties

Violating Canadian sanctions is a criminal offense. Under the United Nations Act, the penalties for a summary conviction include a fine of up to CAD 100,000, a prison term of up to one year, or both. If convicted on indictment, the maximum penalty is a 10-year prison term. Under the Special Economic Measures Act and the Justice for Victims of Corrupt Foreign Officials

Act, a summary conviction can result in a fine of up to CAD 25,000, a prison term of up to one year, or both. A conviction on indictment carries a maximum prison term of five years.⁸⁸

Reporting a potential sanction evasion offence is mandatory for reporting entities, for example financial entities, money service businesses, securities dealers, real estate brokers, and accountants. Non-compliance can lead to administrative or criminal penalties. Criminal penalties with fines from CAD 250,000 to CAD 2,000,000 and/or imprisonment from two years less a day to five years can be imposed for non-compliance with a sanctions regime under the PCMLTFA. Administrative penalties can also be imposed and range from CAD 1 per violation for minor violations to CAD 500,000 per violation for serious violations.⁸⁹

In July 2024 Canada established a civil enforcement regime outside of the criminal process, in order to lighten procedures and increase successful seizures.⁹⁰ It provides for Administrative Monetary Penalties in certain circumstances for violations under any of the three sanction regimes. These can range from CAD 1 for minor infringements to CAD 500,000 and are brought by the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).⁹¹

Enforcement actions

Although Canada has recently strengthened its legislative framework, it has been said to be largely unsuccessful in effectively investigating, charging and prosecuting sanctions violations.⁹²

The most recent amendment of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act constitutes a step towards greater sanctions enforcement as it aims to establish a civil enforcement system for sanction violations. More specifically, it provides for mandatory

reporting on suspected sanctions evasion for prescribed entities, importers, exporters and those financing import/export transactions. The Government has also amended the Criminal Code, reducing the prosecution's evidentiary burden when prosecuting money laundering charges (which may be tied to sanctions evasion). Lastly, this amendment enforces the obligation to report property owned, held or controlled by a designated entity.⁹³ As of January 2024, all companies are required to disclose beneficial ownership information, some of which can be available online.⁹⁴

FRANCE

Institutions

The Ministry of Economy and Finance is responsible for taking decisions to prosecute cases where sanctions are breached and will direct the case to the competent Prosecutor, with the Directorate General of the Treasury Department responsible for managing economic and financial sanctions.⁹⁵

The Monetary and Financial Code provides a framework for asset freezes and penalties in case of sanction breaches. Pending proceedings, the Ministry of Economy and Finance can, under Article L.562-3, order the freezing of assets belonging to individuals, legal entities or organizations which have either committed, or are committing, or which finance or support UN or EU sanctions breaches, as well as individuals, legal entities or organisations which facilitate or participate in breaches. They are also able to freeze assets belonging to legal entities directly or indirectly controlled by involved individuals under Article L.562-3.⁹⁶

When it comes to Russian oligarchs' assets, a designated task force was created in 2022, comprising of the Directorate General of Public Finances, the Financial Intelligence Services (Tracfin), the Treasury, and Customs, in order to freeze and seize assets of targeted individuals.⁹⁷ The Ministry of Economy and Finance and the Ministry of Justice were tasked under this with identifying legal opportunities for confiscation of those assets.⁹⁸

Penalties

Avoiding or circumventing sanctions is a criminal matter in France. In case of a violation of an international restrictive measure, penalties can total up to 5 years imprisonment, confiscation of the goods and means of the offence and fines up to twice the amount of the asset or EUR 5 million.⁹⁹ For legal persons, it can be up to 10 times the amount of the transaction and trigger a prohibition to conduct the activity.¹⁰⁰

Enforcement actions

The Treasury's Directorate General, under the authority of the Ministry of Economy and Finance, maintains an accessible list of all persons, entities and vessels¹⁰¹ subject to asset freezes. However, it is not possible to determine with precision the rate of sanctions enforcement in France,¹⁰² as authorities do not communicate on cases. Convictions for violations of EU restrictive measures are still rare.¹⁰³

France uses criminal and civil forfeiture laws to seize and confiscate.¹⁰⁴ These actions are more effective when they are combined with domestic criminal charges: an example being the action against Viktor Rachnikov's villa, which he acquired through a complex scheme and which was frozen following accusations of tax avoidance in France.¹⁰⁵

In a 2023 study on the enforcement of sanctions against Russian oligarchs, and after a freedom of information request, Transparency International received information from French authorities revealing that 1.3 billion euros in assets had been frozen.¹⁰⁶

LIVING IN LUXURY: HOW FAMILIES OF RUSSIAN OLIGARCHS ESCAPE WAR SANCTIONS IN FRANCE

This story explores how the assets related to two key persons closely related to Putin remain in use, due to their ownership by family members, and the raises the broader questions of whether EU sanctions are providing a loophole for oligarchs through the use of family assets.

The villa of Evgeny Zubitskiy, CEO and majority shareholder of IHM, was placed under sanctions by the European Union (EU) on 8 April 2022, because the company is a major "source of revenue" for the Russian government. However his brother, Andrey Zubitskiy, can continue to enjoy Villa Della Robbia in full legality. He has not been placed under sanctions, even though he is involved, alongside his brother, in the management of IHM.

In 2016, the daughter and ex-wife of Dmitri Peskov, one of Vladimir Putin's most loyal followers, bought a luxury flat in Paris for €1.77 million, including €477,000 lent by a Russian state-owned bank and €1.3 million paid in cash. On 8 March 2022, eight days after Dmitri Peskov was placed under sanctions, his daughter Elizaveta sold her 25% stake in Sirius, the company that owns the Paris flat, to her mother for just 250 euros. This transfer was made two months before Elizaveta Peskova was herself placed under European sanctions on 3 June 2022. Her mother is the only member of the family not to have been sanctioned.

Read the full investigation [here](#).

GERMANY

Institutions

For companies, banks, and insurance providers based in Germany, compliance with EU laws and restrictions is supervised by the German Federal Financial Supervisory Authority (BaFin). The BAFA (the federal office of economics and Export Control, under the Federal Ministry for Economic Affairs and Climate Action) is responsible for the application of trade laws and implementation of the sanctions. For sanctions violations, the public prosecutor's office is responsible for investigation and prosecution.¹⁰⁷

A designated office within the Ministry of Economy for the implementation of sanctions in Germany was created in 2023. The Central Office for Sanctions Enforcement in Germany (*Zentralstelle für Sanktionsdurchsetzung*) has the mission of coordinating the work of the authorities and institutions around sanctions enforcement and investigating frozen assets and enforcing asset freezing orders.¹⁰⁸ The *Zentralstelle für Sanktionsdurchsetzung* was established through the 2022 Sanctions Enforcement Law II (*Sanktionsdurchsetzungsgesetz II*).¹⁰⁹

At the level of the G7, the Enforcement Coordination Mechanism (ECM) established a working group to coordinate the fight against sanctions evasion.¹¹⁰

Penalties

Violations of EU Sanctions can be punished as administrative or criminal offences. For intentional breaches of sanctions, prison sentences range from 3 months to 10 years, with a broader understanding of intentionality in German law than exists in, e.g. the US definition. For sanctions violations based on negligence, civil

penalties of up to EUR 500,000 are possible, if rarely applied. It is also possible to exceed this limit if that would be the only way to exceed the economic benefit derived from the violation.¹¹¹

Legal persons can also be fined when a manager is directly responsible for the violation or where supervisory or organizational culpability is involved. In the case of an intentional violation, the maximum fine is EUR 10 million euros; for negligence, the limit is set at EUR 5 million euros, with EUR 1 million euros for breaches of supervisory duty. Profits from the transactions that violate sanctions can be appropriated by authorities.¹¹²

Enforcement actions

The Sanctions Enforcement Law I (*Sanktionsdurchsetzungsgesetz I*), adopted in May 2022, gave more power to the competent authorities (Deutsche Bundesbank, BaFin, FIU, Customs, BAFA), in terms of sanctions enforcement. It also provided for a reporting obligation of all assets subject to sanctions.¹¹³

The *Sanktionsdurchsetzungsgesetz II* foresees the establishment of a partly public register of sanctioned persons and entities, and their properties, as well as other transparency measures. It also places more scrutiny on real estate transactions and ownership, by flagging unclear beneficial ownership and providing for more transparency more broadly.¹¹⁴

Enforcement of sanctioned Russian individuals' assets took place in 2022, when three apartments and one bank account belonging to a Duma deputy and his wife were seized. The bank account kept on receiving the profits from the rent of the apartments despite the sanctions, which

triggered an investigation from the Bavarian authorities.¹¹⁵ In 2023, approximately EUR 5.25 billion worth of assets were frozen¹¹⁶ out of the EUR 25 billion that could potentially be frozen, according to the news agency Spiegel.¹¹⁷ In terms of company scrutiny, a Northern German company was fined EUR 1.3 million in March 2023 for selling a machine to Russia, thereby violating sanctions.¹¹⁸

ITALY

Institutions

The Committee for Financial Security (Comitato di Sicurezza Finanziaria — CSF), which was created in 2007 and is part of the Ministry of Economic and Financial Affairs, is the responsible authority for implementing international financial sanctions and asset freezes in Italy, as well as coordinating the work of the different government agencies.¹¹⁹

The Italian Financial Intelligence Unit works as an autonomous body of the Bank of Italy and collects information on assets and resources held by designated individuals and their status. The Guardia di Finanza (Financial Police) of the Minister of Economy and Finance is primarily responsible for investigating financial sanctions-related violations and has additional investigative responsibilities in terms of anti-corruption and financial crime. Both the FIU and Guardia di Finanza are part of the Committee for Financial Security, along with public bodies, customs, and the police.¹²⁰

Companies are held directly liable for crimes committed on behalf or for the benefit of the company, and by the individuals that represent or manage the entity, under Legislative Decree No. 231/2001 on corporate liability ("Law 231"). Sanctions evasions can be part of the offences that will trigger this liability.¹²¹

Penalties

Both administrative and criminal penalties are possible for sanction violations. Administrative penalties have a maximum fine of EUR 500,000, confiscation of the goods unlawfully exported/imported, and/or suspension or revocation of licenses and other permits held by the company. Criminal penalties, for intentional violations

can lead to imprisonment of up to six years and criminal pecuniary fines of a maximum of EUR 250,000.¹²²

Legal persons can also be held directly liable for specific "crimes committed on behalf of, or for the benefit of, the company by individuals representing or managing the company."¹²³ Liability is triggered under Law 231 when intentionally perpetrated by three or more individuals (a "conspiracy") and when done on behalf of or for the benefit of the company. Penalties reach a maximum fine of EUR 1.5 million (with increases under certain circumstances), and the imposition of measures that can restrict the operations of the company, for example revocation of licences.¹²⁴

Enforcement actions

The Guardia di Finanza have seized a number of real estate properties, yachts, jets, luxury cars and companies owned or controlled by EU designated persons, to a value of approximately EUR 2.7 billion.¹²⁵ The Italian FIU publishes an annual report, detailing past actions. The 2023 report announced investigations into potentially illicit flows to Russia via third parties.¹²⁶

ASSETS FROZEN IN ITALY

Frozen assets identified in Italy for the first time through this investigation amount to just over two billion euro – or 10% of the EU total frozen assets. The list of frozen assets includes yachts, five planes, eight companies and over a hundred real estate properties, as well as hundreds of thousands of euros deposited in current accounts and many other assets. These are the assets that, from February 2022 to date, have been frozen by the Italian authorities relating to 24 Russian citizens and four companies.

Some valuable frozen assets include: SY A (a yacht) worth EUR 530 million, which, according to the Italian authorities, belongs to Andrey Melnichenko, former owner of the Eurochem (fertilisers) and SUEK (coal) groups; The Scheherazade (a yacht), which cost EUR 650 million, is, according to some press reports, formally attributable to Eduard Khudaynatov, a historical collaborator of Vladimir Putin, former CEO of the state giant Rosneft, now owner of the private Independent Oil and Gas Company; a real estate property (estimated value €1.2 million) in the name of Musa Bazhaev, a businessman active in the mining sector; and assets attributable to Vladimir Putin's friend Boris Rotenberg: real estate (worth €3.6 million) in Costa Smeralda and 50 per cent of Aurora 31 Srl, a company that owns the hotel of the same name located in Rome, a few metres from Via Veneto. Both properties attributed to Boris Rotenberg are formally registered in the name of the Cypriot company Logotax Developments Limited.

Read the full investigation [here](#).

SPAIN

Institutions

The regulation of international financial sanctions takes place through Law 10/2010 of 28 April on the prevention of money laundering and terrorist financing and in Royal Decree 304/2014 of 5 May, which approves the Regulation of Law 10/2010 of 28 April on the prevention of money laundering and terrorist financing.¹²⁷

The Commission for the Prevention of Money Laundering and Financial Infringements (Spain's Financial Intelligence Unit - so-called the "SEPBLAC"), within the Ministry of Economy, is responsible for monitoring compliance with international sanctions, along with the Bank of Spain, the National Securities Market Commission, and the General Directorate of Insurance and Pension Funds. The General Secretariat of the Treasury and International Finance is to be notified in case of infringement and can proceed to the freeze of the corresponding assets, through the General Sub-Directorate of Inspection and Control of Capital Movements.¹²⁸

The Police and Guardia Civil can as well investigate sanctioned entities and inform the Public Prosecutor's office which can take the decision to seize the assets in case of infringement.¹²⁹ The Spanish Treasury must be notified of any transfer of more than 100 000 EUR originating from a legal entity based in the European Union and owned directly or indirectly by Russian or Russian-based legal person, entity or body, as well as from a financial or credit institution.¹³⁰

Penalties

For cases of non-compliance with financial targeted sanctions (asset freeze measures and the prohibition on making

funds or economic resources available to designated parties), fines can be up to the greater of 10 per cent of the total annual turnover of the obliged party, twice the economic content of the transaction, five times the amount of the profits derived from the infringement, where such profits can be determined, or 10 million euros.¹³¹

While implementation of the criminal penalties for sanction evasion is limited, Spanish law provides civil penalties for both natural and legal persons, which include fines and the seizure of the instrument or products of the crime, and prohibitions to obtain public aid, social welfare, tax incentives,¹³² among other benefits, as well as public or private reprimands and the revocation of any managerial position or authorisation to operate.¹³³

Enforcement actions

In early 2023, Transparency International sent information requests to many Western countries about their enforcement actions regarding Russians oligarchs' assets. Neither the Spanish Ministry of Interior nor the Presidency provided data on asset freezes or the number of individuals or entities penalised for sanction violations.¹³⁴ Although Spain has been pointed out as not being as active in enforcing international sanctions, there has been improvement in regards to the Russian sanctions, as multiple oligarchs' assets have been seized and exports more closely scrutinized.¹³⁵

ASSETS FROZEN IN SPAIN

Over 1 billion euros in assets have been frozen in Spain, reported for the first time by InfoLibre as part of the #RussianEscape investigations. This includes real estate, yachts, airplanes and bank accounts and relates to 24 oligarchs and their families. Assets also include a company owned by Russia's Ministry of Transport.

As with Italy, the most valuable assets frozen in Spain are yachts – valued at over 800 million euros. This includes the Lady Anastasia, owned by Alexander Mikhiv, CEO of the state arms export agency Rosoboronexpor; the Valerie, owned by Sergei Chemezov, head of Rostec; and the Sasha Primero and the Neva Primero, both owned by Vladislav Reznik, president of the Rus insurance company.

Another key part of the sanctioned assets are properties, many in the most exclusive communities on the Mediterranean coast. This includes 15 properties that have been seized relating to Igor Vladimirovich Lebedev, vice-president of the Duma, and five relating again to Sergei Chemezov.

Many of these properties have been hidden behind company ownership structure and InfoLibre's investigation has identified several properties relating to close family of sanctioned persons that have not yet been frozen.

Read the full investigation [here](#).

SWITZERLAND

Institutions

Switzerland's sanction regime is governed by the Federal Act on the Implementation of International Sanctions¹³⁶ which authorises the government to impose measures following those imposed by the UN, the OSCE or the EU. Although Switzerland is required to implement the UN measures, it has no legal obligation to adopt EU sanctions.¹³⁷

The State Secretariat for Economic Affairs ("SECO") is the main authority in charge of the implementation of international sanctions, under the responsibility of the Federal Council. This includes economic sanctions, trade restrictions, and financial sanctions such as asset freezes. It ensures that Swiss entities comply with sanctions regulations, including monitoring and enforcing compliance. SECO has the authority to investigate and take action against breaches of sanctions. This can include imposing fines, ordering corrective measures, or referring cases to criminal prosecution when necessary.¹³⁸ SECO collaborates with other government bodies, such as Customs and border control, Civil Aviation and the State Secretary for Migration.¹³⁹

Penalties

Any breach – intentional or not - constitutes a criminal offence under Swiss law. According to Article 9 of the Federal Act on the Implementation of International Sanctions,¹⁴⁰ intentional sanctions violations can lead to penalties of up to one year's imprisonment or a fine of up to CHF 540,000 (EUR 576,000). In serious cases, the penalty is up to five years' imprisonment or a fine of up to CHF 1 million (EUR 1 million). In particularly serious cases, SECO may refer the matter to the Office of the

Federal Prosecutor. Failure to comply with an obligation to declare may result in a fine of up to CHF 100,000 (EUR 100,000). A violation by negligence can be punished of up to CHF 100,000 (EUR 100,000) fine (Article 10).¹⁴¹

Enforcement actions

SECO publishes lists of sanctioned individuals and entities¹⁴² and provides an online search tool.¹⁴³ With regard to the Russian sanctions, one of the key financial measures of the Ordinance related to the Situation in Ukraine is the ban on accepting deposits in excess of CHF 100,000 from Russian nationals, natural persons resident in the Russian Federation or banks, companies or organisations established there.¹⁴⁴

In July 2023, authorities launched an investigation into possible evasion of sanctions by a Geneva-based oil trader Paramount.¹⁴⁵ As of the 31 December 2023, the value of assets frozen in Switzerland as a result of the sanctions against Russia amounted to CHF 5.8 billion (EUR 6.1 billion), in addition to 17 properties, sports and luxury cars, works of art, furniture and instruments belonging to individuals, companies or entities affected by the sanctions.¹⁴⁶

After being criticised for their reluctance in implementing sanctions against Russia in 2023,¹⁴⁷ SECO set up a special unit to investigate and enforce sanctions linked to the situation in Ukraine.¹⁴⁸ As of July 2024, Swiss authorities had opened 50 investigations into possible sanctions violations, 15 of which had been confirmed as breaches and led to penalties.¹⁴⁹

The SECO has also made available an online support guide to interpreting sanctions and their application, since August 2024.¹⁵⁰

UNITED KINGDOM

Institutions

Financial sanctions are implemented by the Office of Financial Sanctions Implementation (OFSI) and jointly enforced by OFSI and the National Crime Agency (NCA). The NCA has the power to institute criminal proceedings to enforce sanctions compliance.¹⁵¹

UK authorities have increased interagency cooperation around sanctions enforcement in recent years, with increases in investigations and larger fines imposed.¹⁵² A part of this has been increased resourcing of OFSI, with the enforcement and investigations team doubling in size in 2022 and proactive encouragement of complaints and whistleblowing.¹⁵³ There has also been increased attention paid to investigative journalism around sanction breaches by UK sanctions enforcement institutions and enhanced cooperation with the US.¹⁵⁴

Penalties

Violations of financial sanctions have differing levels of penalties. Criminal charges can be brought for sanctions breaches, which can result in up to 7 years imprisonment and / or an unlimited fine.¹⁵⁵

OFSI can also impose civil, financial penalties in the case of sanctions breaches. The maximum penalty is GBP 1 million (EUR 1.2 million) or 50% of the value of the breach, whichever is greater. Starting from the maximum, OFSI determines a penalty based on the standards of reasonableness and proportionality based on the seriousness of the case. It can be anywhere from the maximum to zero. A deduction of usually between 30 - 50% of that determined amount can be made for voluntary disclosure, varying based on

the severity of the case.¹⁵⁶ Civil penalties have been made on a strict liability basis since June 2022¹⁵⁷ – meaning that liability is established with the action itself and without the need to prove intent or fault.

Enforcement actions

The OFSI website includes a list of enforcement actions that OFSI has decided to publicise. Ten are listed as of October 2024, with the latest being from September 2024.¹⁵⁸ The website highlights the company name, sector, the penalty applied and the regulations in question.

The largest penalty listed is against Standard Chartered Bank in 2020 for the amount of GBP 20.47 million (EUR 24.5 million) in relation to the Ukraine sanctions of 2014.¹⁵⁹ An April 2024 report of the UK Parliament's Foreign Affairs Committee indicates that the UK government expects investigations into potential breaches of the 2022 Russian sanctions "to come to fruition in 2024, possibly resulting in further monetary penalties."¹⁶⁰

UNITED STATES

Institutions

The US Department of the Treasury's Office of Foreign Assets Control (OFAC) is responsible, and actively takes action, against persons suspected of sanctions violations. While the largest fines it has issued have been against financial institutions, it also takes actions against companies, manufacturers and other sectors where sanctions violations happen. It has a mandate to also prosecute non-US companies and banks that use US financial institutions for payments that related to US sanctions.¹⁶¹

The Department of Justice has then responsibility for the prosecution of criminal sanctions offences. The United States Department of Commerce Bureau of Industry and Security (BIS) also plays a role in enforcing sanctions as they relate to export controls.¹⁶²

Penalties

Criminal and civil penalties exist for sanctions violations. Intentional sanctions violations can result in up to USD 1 million per violation and/or up to 20 years' imprisonment in the case of individuals under criminal law. Penalties under civil law can be up to the higher of either twice the value of the transaction that underlay the violation or a sum of approx. USD 350,000 per violation.¹⁶³

Non-financial penalties are also possible for legal persons. This can include a requirement to conduct audits or submit reports to compliance programmes. It can also include publication of the violation by OFAC, which can have consequences for the individual and company involved in terms of reputation and may make dealing with financial institutions more challenging due to an increased risk profile.¹⁶⁴

Enforcement actions

The United States is reputed to have the "longest and deepest history of aggressively enforcing its sanctions laws against companies and other parties that violate sanctions".¹⁶⁵

As of October 2024, the OFAC Enforcement Actions webpage notes 273 recent actions, with details provided of the sanctions regime violated or suspected of having been violated, judgements or settlements and amounts involved.¹⁶⁶

Despite strong institutional support however, the US architecture for providing information around potential sanctions violations suffers from weaknesses. Beneficial ownership information in particular is not readily available: the US beneficial ownership registry was only established on 1 January 2024 and will not be publicly available.¹⁶⁷ Trusts however will now be required to report on beneficial ownership to authorities if they are classified as a reporting company under the Corporate Transparency Act, which went into effect in 2024.¹⁶⁸

EUROPEAN UNION

On the 19 May 2024, the EU's new rules on sanctions enforcement entered into force.¹⁶⁹ Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673¹⁷⁰ – the so-called Sanctions Enforcement Directive – will require EU Member States to bring in a range of measures to strengthen enforcement of sanctions by the 20 May 2025.

The Directive requires Member States to criminalise a range of conduct relating to the violation and circumvention of EU sanctions, including failing to freeze assets, providing prohibited or restricted economic and financial services, transferring funds that should be frozen to a third party or providing false information to conceal funds that should be frozen.¹⁷¹

It also requires the institution of 'effective, proportionate and dissuasive criminal penalties' for those offences and sets a range of imprisonment maximums that should be established in the law dependent on the type and severity of the breach.¹⁷² It further requires penalisation of legal persons, such as companies, and includes, for the majority of offences, that legal persons receive fines totalling at least a maximum of 5 % of the total worldwide turnover or an amount corresponding to EUR 40 million.¹⁷³

The new directive also includes provisions that relate to asset recovery and enforcement. Asset recovery is linked through reference to confiscation of instrumentalities and proceeds resulting from the criminal offences listed in Articles 3 and 4 and to the EU's Asset Recovery directives. In this regard the new 2024 Asset Recovery Directive also includes crimes listed in the Sanctions Enforcement Directive within its provisions.¹⁷⁴

With regards to enforcement, it requires EU Member States to designate an authority responsible for coordinating with other European law enforcement bodies responsible for implementing EU sanctions and for cooperation between Member State bodies and European law enforcement agencies, such as Europol and the European Public Prosecutor's Office (EPPO).¹⁷⁵

Discussion has also taken place in the EU around extending the mandate of the 2021 established EPPO to also allow it to take up cases of violations of EU restrictive measures. While there has been some support for this, unanimity across all EU Member States is required and no action has been taken to extend the EPPO's mandate to include this yet.¹⁷⁶



CONCLUSIONS

CONCLUSIONS

This report has highlighted several important elements when it comes to the enforcement of sanctions through both a review of the literature and through reviewing the institutions, penalties and actual enforcement of sanctions across jurisdictions in Europe and North America.

As in previous work we and others have carried out, it has reiterated the importance of linking sanctions to asset recovery: when sanctions are placed on persons or entities who are believed to be involved in corruption and the misappropriation of state funds, sanctions should not be the end goal of themselves. Rather, there should be consideration of whether originating crimes could be prosecuted or whether crimes occurred in the introduction of those assets into the sanctioning jurisdiction.

For that to be a consideration, sanctions need to be effectively implemented and enforced. States are likely to find challenges in this enforcement due to the methods sanctioned persons go to in order to disguise ownership so that they can continue to use assets that should be frozen or seized. This includes techniques similar to those used by corrupt actors in hiding money more broadly, such as using disguised ownership structures, transferring assets to non-sanctioned family members and associates prior to designation, avoiding thresholds for automatic declarations / suspicious transaction reports, and removal of assets before designation to jurisdictions unlikely to sanction.¹⁷⁷ An additional challenge may come from complexities within sanctioning regimes and changes to those regimes, making it harder for private actors to effectively ensure assets of designated persons are frozen¹⁷⁸ and from the abuse of legal tools to prevent the media and civil society from investigating.¹⁷⁹

Looking across the eight jurisdictions considered, plus the upcoming EU reforms, the current state of sanctions reveals a mixed picture. While steps are being taken toward more unified and comprehensive enforcement, significant differences in approach and legal frameworks remain. It is also unclear the extent to which enforcement actions are taking place in practice, with few jurisdictions comprehensively reporting on amounts of enforcement actions taken, against whom and for what.

Consequently, there is clearly more work to be done in building strong processes to effectively enforce sanctions across key sanctioning jurisdictions. Without a commitment to this, the imposition of sanctions themselves and any investigations into corruption risk being paper tigers, as designated persons and entities exploit loopholes and lax enforcement to hide assets and to move assets outside sanctioning jurisdictions.

RECOMMENDATIONS

- Ensure robust legislation and policies are in place that foresee, and address, techniques used to evade sanctions, such as checking for and being able to prosecute unexplained transfers of ownership or to other jurisdictions prior to designation;
- Properly resource and staff institutions responsible for enforcing sanctions and implement requirements to report publicly and regularly on enforcement actions taken;
- Address the surrounding structures, including around secrecy in company ownership, that undermine efforts to enforce sanctions through legislation, policy and institutions;
- Review legislation to ensure coherence with other jurisdictions' sanction evasion laws and policies and consider the introduction of civil enforcement routes, where not currently existing;
- Work with other jurisdictions, including those not sanctioning, to ensure that they cannot be used as a safe haven for sanctions evasion;
- Consider linking the imposition of fines and assets confiscated as part of sanctions enforcement actions to the victims of crimes related to the sanction designation. Where anti-corruption sanctions are in place, consideration should be given to the disbursement of fines to the people of the country where the corruption occurred;
- Review sanctions enforcement legislation and policy in light of the Civil Society Principles on Sanctions and Asset Recovery and other best practice standards;
- Address the use of strategic lawsuits against public participation (SLAPPs) and implementing protection for journalists, civil society and citizen activists engaged in public work from the threat of litigation, currently being used to avoid scrutiny over actual and potential sanctioned assets.



REFERENCES

REFERENCES

- 1 Definitions taken from: Brun, Jean-Pierre, Larissa Gray, Clive Scott, and Kevin Stephenson. *Asset Recovery Handbook: A Guide for Practitioners*. The World Bank, 2011. <https://doi.org/10.1596/978-0-8213-8634-7>; FATF. "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation." 2012-2023. Paris, France. www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html
- 2 For example: CiFAR, *Russian Escape Investigations*, 2023, CiFAR, <https://cifar.eu/russian-escape-investigations/>
- 3 Justyna Gudzowska, Eliza Lockhart and Tom Keatinge, 'Disabling the Enablers of Sanctions Circumvention', RUSI 7 May 2024, <https://rusi.org/explore-our-research/publications/policy-briefs/disabling-enablers-sanctions-circumvention> [accessed 2 October 2024].
- 4 KPMG, 'Complexity is the biggest challenge in sanctions compliance: KPMG Forensic sanctions survey results', KPMG, September 2023, <https://kpmg.com/nl/en/home/insights/2023/09/complexity-is-the-biggest-challenge-in-sanctions-compliance.html> [accessed 2 October 2024]; Elucidate, 'Sanctions risks: KYC challenges and how to overcome them' Elucidate, February 27, 2023, <https://www.elucidate.co/blog/sanctions-risks-kyc-challenges-and-how-to-overcome-them> [accessed 2 October 2024].
- 5 The possible confiscation of state assets brings with it whole other set of challenges and is therefore out of the scope of this paper.
- 6 For example, EU sanctions legislation uses the term "freezing of economic resources" which "means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them;" and "freezing of funds" of various kinds, which means "preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or any other change that would enable the funds to be used, including portfolio management." Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0269>
- 7 Office of Financial Sanctions Implementation. *UK Financial Sanctions. General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018*. 2022, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/961516/General_Guidance_-_UK_Financial_Sanctions.pdf
- 8 Gordon, Joy. "Smart Sanctions Revisited," *Ethics and International Affairs*, Vol. 25, No. 3, Fall 2011, p.315-335.
- 9 Portela, Clara. "Horizontal sanctions regimes: targeted sanctions reconfigured?" 2021. In C. Beaucillon (Ed.), *Research Handbook on Unilateral and Extraterritorial Sanctions*. Edward Elgar
- 10 Moiseienko, Anton. "Crime and Sanctions: Beyond Sanctions as a Foreign Policy Tool". *German Law Journal* (Forthcoming), 2023. Available at SSRN: <https://ssrn.com/abstract=4478056>
- 11 In the case of Russia, it is widely perceived that the key goals that sanctions are trying to achieve are regime change, change of Russian policy, disrupting the military capacity, and expressing strong disapproval with the invasion. Agazzi, Isolda. "Russia: Sanctions under Scrutiny." *AllianceSud* (blog), June 21, 2022. <https://www.alliancesud.ch/en/russia-sanctions-under-scrutiny>.
- 12 Cizmaziova L., 'From Sanctions to Investigations', CiFAR, 2024.
- 13 Cizmaziova L., *Sanctions as a tool for asset recovery: A global perspective*, 2021, CiFAR, p19
- 14 *Ibid.*, p7
- 15 *Ibid.*, p33
- 16 Europol, "EU-wide operation targeting criminal assets in relation to Russian invasion of Ukraine", 11 April 2022, <https://www.europol.europa.eu/media-press/newsroom/news/eu-wide-operation-targeting-criminal-assets-in-relation-to-russian-invasion-of-ukraine> [accessed 09 September 2024]
- 17 Presentation by EU Policy Expert, September 2024.
- 18 Abou Ez E., "Où sont passés 'les milliards' du clan Moubarak ? », *France Info*, 12 April 2024, https://www.francetvinfo.fr/monde/afrique/societe-africaine/ou-sont-passes-les-milliards-du-clan-moubarak_5070265.html [accessed on 09 September 2024]
- 19 Cizmaziova, 2023, *op. cit.*, p38
- 20 Cizmaziova, 2021, *op.cit.*, p23
- 21 *Civil Society Principles on the Use of Anti-Corruption Sanctions as a Tool for Asset Recovery*, CiFAR, <https://cifar.eu/what-is-asset-recovery/sanctions-principles/> [accessed 19 September 2024]
- 22 *ibid.*
- 23 REDRESS, *Evaluating Targeted Sanctions*, November 2022, <https://redress.org/wp-content/uploads/2023/11/Evaluating-Targeted-Sanctions.pdf>
- 24 CiFAR, "Russian Escape Investigations", CiFAR, <https://cifar.eu/russian-escape-investigations/> [accessed 19 September 2024]
- 25 REDRESS, *op.cit.*, p12
- 26 Contini K.B, Gilroy T., Martin G., "Sanctions Enforcement Around the G7: Intro to Blog Series and View from the United States" *Baker McKenzie*, 28 February 2023, <https://sanctionsnews.bakermckenzie.com/sanctions-enforcement-around-the-g7-intro-to-blog-series-and-view-from-the-united-states/> [accessed 14 June 2024].
- 27 Office of Financial Sanctions Implementation, *Guidance: Financial sanctions enforcement and monetary penalties guidance*, UK Government, 16 May 2024, <https://www.gov.uk/government/publications/financial-sanctions-enforcement-and-monetary-penalties-guidance/financial-sanctions-enforcement-and-monetary-penalties-guidance#case-assessment> [accessed 22 August 2024].
- 28 Mann S., Grimmer T. and Mackness C., "Sanctions Enforcement Around the G7, The UK Perspective' *Baker McKenzie*, 10 March 2023, <https://sanctionsnews.bakermckenzie.com/blog-series-sanctions-enforcement-around-the-g7-the-uk-pers->

pective/ [accessed 22 August 2024].

29 Thoms A., Ehrle A., Fischer K., "Blog Series: Sanctions Enforcement Around the G7, the German Perspective", Baker McKenzie, 22 March 2023, <https://sanctionsnews.bakermckenzie.com/g7-enforcement-coordination-mechanism-germany/> [accessed 24 July 2024]

30 Ibid.

31 Webster J., Rotondi J., Xu J., Ramirez O., Somera E., "Blog Series: Sanctions Enforcement Around the G7, The Canadian Perspective", Baker McKenzie, April 10 2023, <https://sanctionsnews.bakermckenzie.com/sanctions-enforcement-around-the-g7-the-canadian-perspective/> [accessed 14 August 2024]

32 Ibid.

33 Eversheds Sutherland, Global Sanctions Guide: France, (n.d.), <https://ezine.eversheds-sutherland.com/global-sanctions-guide/france> [accessed 9 July 2024].

34 Lopez de Gonzalo M., Del Re C., "Sanctions Italy 2024", Sanctions 2024, ICLG, 27 September 2023, <https://iclg.com/practice-areas/sanctions/italy> [accessed 24 July 2024]

35 Ministerio de Assuntos Económicos y Transformación Digital, Sanciones financieras internacionales: cuestiones generales y procedimientos especiales en materia de no proliferación, https://www.tesoro.es/sites/default/files/sanciones_financieras_internacionales_cuestiones_generales_y_procedimientos_especiales_en_materia_de_no_proliferacion_5.pdf [accessed 25 July 2024]

36 Serraller M., "Las sanciones a Rusia en España: 862 oligarcas y 53 sociedades tienen ya sus activos congelados", Vozpopuli, 15 March 2022, https://www.vozpopuli.com/economia_y_finanzas/sanciones-rusia-espana.html [accessed 25 July 2024]

37 Bazzani C., Ferrari-Visca R., Bindschedler S., "Sanction Switzerland 2025", Sanctions 2025, ICLG, 20 September 2024 [accessed 15 October 2024]

38 Vacher B., "Task Force de Bercy : la traque des avoirs russes bat son plein", Boursier.com, 04 March 2022 <https://www.boursier.com/patrimoine/impots/actualites/task-force-de-bercy-la-traque-des-avoirs-russes-bat-son-plein-7224.html> [accessed 24 July 2024], see also: L Cizmaziova, From Sanctions to Investigations, CIFAR (2024), <https://cifar.eu/from-sanctions-to-investigations/>

39 Freigang V., Martin M., "Up to the task? The state of play in countries committed to freezing and seizing Russian dirty money", Transparency International, 2022, p12 <https://images.transparencycdn.org/images/2022-Report-Up-to-the-task.pdf>

40 Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401226

41 Arts. 15, 16; Csonka P., Zoli L., 'The New Directive on the Violation of Union Restrictive Measures in the Context of the EPPO', 21 June 2024, <https://eucrim.eu/articles/the-new-directive-on-the-violation-of-union-restrictive-measures-in-the-context-of-the-eppo/> [accessed 14 June 2024].

42 Canadian Sanctions - Frequently Asked Questions, https://www.international.gc.ca/world-monde/international-relations-relations_internationales/sanctions/faq.aspx?lang=eng#a14 [Accessed 14 August 2024]

43 Perche M., Guelton S., "Blog Series: Sanctions Enforcement Around the G7, the French Perspective", Baker McKenzie, 28 March 2023, <https://sanctionsnews.bakermckenzie.com/blog-series-sanctions-enforcement-around-the-g7-the-french-perspective/> [accessed 24 July 2024]. ; Eversheds Sutherland, op. cit

44 Julié W., Beauchemin A., Gosson C., "Sanctions France 2024", Sanctions 2025, ICLG, 20 September 2024, <https://iclg.com/practice-areas/sanctions/france> [accessed 15 October 2024]

45 Thoms A., Ehrle A., Fischer K., op.cit

46 Cursano R., Ovidi R., "Blog Series: Sanctions Enforcement Around the G7, the Italian Perspective", Baker McKenzie, 22 March 2023, <https://sanctionsnews.bakermckenzie.com/blog-series-sanctions-enforcement-around-the-g7-the-italian-perspective/> [accessed 24 July 2024]

47 Mann S., Grimmer T., Mackness C., op.cit.

48 Loi sur les embargos, LEmb, Art 9 Section 5, 2002, https://www.fedlex.admin.ch/eli/cc/2002/564/fr#art_9 [accessed 8 August 2024]; ICLG, 'Sanctions Switzerland 2025', ICLG, 20/09/2024, <https://iclg.com/practice-areas/sanctions/switzerland> [accessed 10 October 2024].

49 Contini K.B., Gilroy T., Martin G., op.cit

50 Malaga F., Forwood G., Nordin S., "Practical and legal implications in Spain following the EU harmonization of enforcement and penalties for sanctions violations", White & Case, 21 May 2024, <https://www.whitecase.com/insight-alert/practical-and-legal-implications-spain-following-eu-harmonization-enforcement-and> [accessed 25 July 2024]

51 Webster J., Xu J., "Canada Aims to Bolster Sanctions Enforcement Through Existing AML and Customs Regimes", Baker McKenzie, July 19 2024, <https://sanctionsnews.bakermckenzie.com/canada-aims-to-bolster-sanctions-enforcement-through-existing-aml-and-customs-regimes/> [accessed 14 August 2024]

52 Thoms A., Ehrle A., Fischer K., op.cit.

53 Cursano R., Ovidi R., op.cit.

54 Ministerio de Assuntos Económicos y Transformacion Digital, op.cit

55 Office of Financial Sanctions Implementation, op.cit.

56 Mann S., Grimmer T., Mackness C. op.cit

57 Contini K.B., Gilroy T., Martin G., op.cit

58 ICLG, 'Sanctions Switzerland 2025', ICLG, 20/09/2024, <https://iclg.com/practice-areas/sanctions/switzerland> [accessed 10 October 2024].

59 European Commission, op.cit.

60 Art. 5.

61 Arts 6 and 7.

62 Staatsanwaltschaft München I, "Sanktionen gegen zwei russische Staatsbürger wegen des Angriffskriegs auf die



Ukraine: Staatsanwaltschaft München I und Bundeskriminalamt beschlagnahmen drei Wohnungen in München", Pressemitteilung 03 com 20.06.2022, <https://www.justiz.bayern.de/gerichte-und-behoerden/staatsanwaltschaft/muenchen-1/presse/2022/3.php> [accessed 24 July 2024]

63 Laufen K., "Strafbefehl gegen Unternehmen", Tagesschau, 15 March 2023, <https://www.tagesschau.de/investigativ/swr/eu-sanktionen-krim-unternehmen-kiel-strafgeld-101.html> [accessed 24 July 2024]

64 Farge E., Hirt O., Murray M., "Switzerland opens dozens of Russian sanctions cases", Reuters, July 17 2024, <https://www.reuters.com/world/europe/switzerland-opens-dozens-russian-sanctions-cases-2024-07-17/> [accessed 8 August 2024]

65 Office of Financial Sanctions Implementation, Collection: Enforcement of financial sanctions, 31 August 2023, <https://www.gov.uk/government/collections/enforcement-of-financial-sanctions> [accessed 10 October 2024].

66 Ibid.

67 OFAC, 'Recent Actions: Enforcement Actions' ,<https://ofac.treasury.gov/recent-actions/enforcement-actions> [accessed 10 October 2024]

68 Gudzowska J., Lockhart E., Keatinge T., op.cit.

69 Ibid.

70 Ibid.

71 Ibid

72 Ibid

73 KPMG, op.cit. ; Elucidate, op.cit.

74 Redress, 'Repurposing the £783,827,34 recovered from Petr Aven for survivors of the war in Ukraine' July 2024, <https://redress.org/wp-content/uploads/2024/08/REDRESS-Briefing-on-repurposing-the-forfeited-Petr-Aven-funds.pdf> [accessed 27 September 2024].

75 Ibid,pp. 1-2.

76 Ibid, pp. 2-3.

77 Ibid, p. 3.

78 Titov S., 'How Konstantin Malofeyev, Russia's 'Orthodox Oligarch,' Finances His Support Of Moscow's War In Ukraine' Radio Free Europe / Radio Liberty, June 24, 2023, <https://www.rferl.org/a/malofeyev-russia-oligarch-finces-war-ukraine/32474096.html> [accessed 27 September 2024].

79 Reuters, 'U.S. attorney general OKs transfer of forfeited funds from Russia oligarch for use in Ukraine' May 10, 2023, <https://www.reuters.com/world/europe/us-attorney-general-oks-transfer-forfeited-funds-russia-oligarch-use-ukraine-2023-05-10/> [accessed 27 September 2024]; Lynch S.N., 'U.S. charges Russian oligarch with violating sanctions, disrupts botnet', Reuters, April 6, 2022, <https://www.reuters.com/world/us-justice-department-charging-russian-oligarch-malofeyev-2022-04-06/> [accessed 27 September 2024].

80 Government of Canada, Canadian Sanctions Legislation, https://www.international.gc.ca/world-monde/international_relations-reactions_internationales/sanctions/legislation-lois.aspx?lang=eng [accessed 14 August 2024]

81 United Nation Act, 1985, <http://laws-lois.justice.gc.ca/eng/acts/U-2/index.html> [accessed 14 August 2024]

82 Special Economic Measures Act, 1982, <http://laws-lois.justice.gc.ca/eng/acts/S-14.5/index.html> [accessed 14 August 2024]

83 Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), 2017, <https://laws.justice.gc.ca/eng/acts/J-2.3/FullText.html> [accessed 14 August 2024]

84 Freezing Assets of Corrupt Foreign Officials Act, 2011, <https://laws-lois.justice.gc.ca/eng/acts/F-31.6/index.html>

85 FINTRAC, Special Bulletin on Russia-linked money laundering activities, May 2023, <https://fintrac-canafe.canada.ca/intel/bulletins/r/ml-eng.pdf> [accessed 14 August 2024]

86 Webster J., Rotondi J., Xu J., Ramirez O., Somera E., op.cit

87 <https://liberal.ca/our-platform/canada-financial-crimes-agency/>

88 Canadian Sanctions - Frequently Asked Questions, https://www.international.gc.ca/world-monde/international_relations-reactions_internationales/sanctions/faq.aspx?lang=eng#a14 [Accessed 14 August 2024]

89 FINTRAC, Penalties for non-compliance, <https://fintrac-canafe.canada.ca/pen/1-eng> [accessed 14 August 2024]

90 Webster J., Xu J., op.cit

91 Ibid

92 As per June 2024, only one prosecution was successful. Ibid, see also Webster J., Rotondi J., Xu J., Ramirez O., Somera E., op. cit

93 Webster J., Xu J., op. cit

94 Innovation, Science and Economic Development Canada , How to find information about individuals with significant control, <https://ised-isde.canada.ca/site/corporations-canada/en/how-find-information-about-individuals-significant-control> [accessed 14 August 2024]

95 Eversheds Sutherland, Global Sanctions Guide: France, (n.d.), <https://ezine.eversheds-sutherland.com/global-sanctions-guide/france> [accessed 9 July 2024].

96 Ibid.

97 Vacher B., op.cit., see also: L Cizmaziava, From Sanctions to Investigations, CIFAR (2024), <https://cifar.eu/from-sanctions-to-investigations/>

98 Freigang V., Martin M., op.cit.

99 Perche M., Guelton S., op.cit ; Eversheds Sutherland, op. cit

100 Julié W., Beauchemin A., Gosson C., op.cit

101 <https://gels-avoirs.dgtresor.gouv.fr/List>

102 Perche M., Guelton S., op. cit

103 Picca J., Merle-Beral A., Luciani H., "Towards an inevitable evolution of the enforcement of EU restrictive measures", Hogan Lovells, 20 March 2024, <https://www.engage.hoganlovells.com/knowledgeservices/insights-and-analysis/towards-an-inevitable-evolution-of-the-enforcement-of-eu-restrictive-measures> [accessed 24 July 2024]



104 Webb P., "Legal options for confiscation of Russian state assets to support the reconstruction of Ukraine", EPRS | European Parliamentary Research Service, 2024, [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/759602/EPRS_STU\(2024\)759602_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/759602/EPRS_STU(2024)759602_EN.pdf)

105 El Idrissi A., "Une villa saisie et dix-neuf enquêtes ouvertes : les sanctions contre les oligarques russes commencent à porter leurs fruits en France", Le Monde, 01 mars 2023, https://www.lemonde.fr/les-decodeurs/article/2023/03/01/une-villa-saisie-et-dix-sept-enquetes-ouvertes-les-sanctions-contre-les-oligarques-russes-commencent-a-porter-leurs-fruits-en-france_6163762_4355770.html [accessed 24 July 2024]

106 Transparency International, "Why can't Western Governments tell us what they're actually doing to sanction Russian kleptocrats?", 28 Septembre 2024, <https://www.transparency.org/en/news/right-to-information-progress-with-sanctioning-russian-kleptocrats-assets> [accessed 24 July 2024]

107 Thoms A., Ehrle A., Fischer K., op.cit

108 Ibid.

109 Ibid.

110 Ibid.

111 Ibid.

112 Ibid.

113 Federal Ministry for Economic Affairs and Climate Action, "Enforcement of sanctions & sanctions-related criminal law", 21 Decembre 2023, <https://www.bmwk.de/Redaktion/EN/Artikel/Foreign-Trade/enforcement-of-sanctions-and-sanctions-related-criminal-law/enforcement-of-sanctions-and-sanctions-related-criminal-law.html> [accessed 24 July 2024]

114 Federal Ministry of Finance, "Sanctions Enforcement Act II: making sure sanctions work", 23 February 2023, <https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Topics/Priority-Issues/Financial-Crime/sanctions-enforcement-act-II.html> [accessed 24 July 2024]

115 Staatsanwaltschaft München I, op. cit

116 Thoms A., Ehrle A., Fischer K., op. cit

117 Der Spiegel, "Bundesregierung könnte Vermögen in Höhe von 25 Milliarden Euro blockieren", issue 09/2022, February 2022, <https://www.spiegel.de/wirtschaft/russland-sanktionen-bundesregierung-koennte-vermoegen-von-25-milliarden-euro-einfrieren-a-0d9c364f-73ea-49c4-9b4a-966577334cbc> [accessed 24 July 2024]

118 Laufen K., op.cit

119 https://www.dt.mef.gov.it/it/attivita_istituzionali/prevenzione_reati_finanziari/comitato_sicurezza_finanziaria/

120 Lopez de Gonzalo M., Del Re C., op.cit

121 Cursano R., Ovidi R., op.cit.

122 Ibid

123 Ibid

124 Ibid

125 Ibid.

126 Ibid

127 Ministerio de Assuntos Económicos y Transformación Digital, op.cit.

128 Ibid.

129 Serraller M., op.cit

130 Ministerio de Assuntos Económicos y Transformacion Digital, op.cit

131 Ministerio de Assuntos Económicos y Transformacion Digital, op.cit

132 Malaga F., Forwood G., Nordin S., op.cit.

133 Ministerio de Assuntos Económicos y Transformación Digital, op.cit, pp 25-26

134 Transparency International, 2024, op.cit.

135 Enrich V., Amberg P., Esteve I., "Blog Series: Sanctions Enforcement Around the G7, the Spanish Perspective", Baker McKenzie, 14 June 2023, <https://sanctionsnews.bakermckenzie.com/blog-series-sanctions-enforcement-around-the-world-the-spanish-perspective/> [accessed 25 July 2024]

136 Reich P. M., Rolaz M., Projer K., "Sanctions Enforcement Around the World, the Swiss Perspective" Baker McKenzie, May 9 2023, <https://sanctionsnews.bakermckenzie.com/blog-series-sanctions-enforcement-around-the-world-the-swiss-perspective/> [accessed 8 August 2024]

137 Bazzani C., Ferrari-Visca R., Bindschedler S., op.cit

138 State Secretariat for Economic Affairs SECO, FAQ - Sanctions contre la Russie, https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/faq_russland_ukraine.html [accessed 8 August 2024]

139 Bazzani C., Ferrari-Visca R., Bindschedler S., op.cit

140 Loi sur les embargos, LEmb, Art 9 Section 5, 2002, https://www.fedlex.admin.ch/eli/cc/2002/564/fr#art_9 [accessed 8 August 2024]

141 Loi sur les embargos, LEmb, Art 10 Section 5, 2002, https://www.fedlex.admin.ch/eli/cc/2002/564/fr#art_10 [accessed 8 August 2024]

142 State Secretariat for Economic Affairs SECO, "Sanctions / Embargos", https://www.seco.admin.ch/seco/en/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos.html [accessed 8 August 2024]

143 State Secretariat for Economic Affairs SECO, Searching for subjects of sanctions, https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/suche_sanktionsadressaten.html [accessed 8 August 2024]

144 Ordonnance instituant des mesures en lien avec la situation en Ukraine, art 20, March 4 2022, https://www.fedlex.admin.ch/eli/cc/2022/151/fr#art_20 [accessed 8 August 2024]

145 Brovko L., "FT: Switzerland is investigating for the first time whether oil trader "Paramount" is evading Russian sanc-



- tions", Babel, July 4 2024, <https://babel.ua/en/news/95898-ft-switzerland-is-investigating-for-the-first-time-whether-oil-trader-paramount-is-evading-russian-sanctions> [accessed 8 August 2024]
- 146 State Secretariat for Economic Affairs SECO, FAQ - Sanctions contre la Russie, op.cit.
- 147 James H., Davis Plüss J., "Switzerland has to 'go above and beyond' to implement sanctions", Swissinfo.ch, July 3 2023, <https://www.swissinfo.ch/eng/switzerland-has-to-go-above-and-beyond-to-implement-sanctions/48589210> [accessed 8 August 2024]
- 148 Revill J., Maclean W., "Swiss cracking down on attempts to evade Russian sanctions", Reuters, February 21 2024, <https://www.reuters.com/world/europe/swiss-cracking-down-attempts-evade-russian-sanctions-2024-02-21/> [accessed 8 August 2024]
- 149 Farge E., Hirt O., Murray M., op. cit.
- 150 Which can be downloaded here in French, German, and Italian: https://www.seco.admin.ch/seco/fr/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/sanktionen-embargos/sanktionsmassnahmen/faq_russland_ukraine.html
- 151 Mann S., Grimmer T., Mackness C., op.cit.
- 152 Ibid.
- 153 Ibid.
- 154 Ibid.
- 155 Ibid.
- 156 Office of Financial Sanctions Implementation, Guidance: Financial sanctions enforcement and monetary penalties guidance, UK Government, 16 May 2024, <https://www.gov.uk/government/publications/financial-sanctions-enforcement-and-monetary-penalties-guidance/financial-sanctions-enforcement-and-monetary-penalties-guidance#case-assessment> [accessed 22 August 2024].
- 157 Mann S., Grimmer T., Mackness C. op.cit. (
- 158 Office of Financial Sanctions Implementation, Collection: Enforcement of financial sanctions, 31 August 2023, <https://www.gov.uk/government/collections/enforcement-of-financial-sanctions> [accessed 10 October 2024].
- 159 Ibid.
- 160 UK Parliament Foreign Affairs Committee, Still no fines as a result of 2022 Russian sanctions breaches, UK Parliament, 19 April 2024, quoting Minister of State at the FCDO, Anne-Marie Trevelyan, <https://committees.parliament.uk/committee/78/foreign-affairs-committee/news/200947/still-no-fines-as-a-result-of-2022-russian-sanctions-breaches/> [accessed 22 August 2024].
- 161 Contini K.B., Gilroy T., Martin G., op.cit.
- 162 Ibid.
- 163 Ibid.
- 164 Ibid.
- 165 Ibid.
- 166 OFAC, 'Recent Actions: Enforcement Actions' ,<https://ofac.treasury.gov/recent-actions/enforcement-actions> [accessed 10 October 2024]
- 167 Freigang, V. and Martini, M. op.cit. p. 16. ; US Dept. of the Treasury, "U.S. Beneficial Ownership Information Registry Now Accepting Reports", 1 January 2024, <https://home.treasury.gov/news/press-releases/jy2015> [accessed 22 August 2024].
- 168 Feldman, S. "The Corporate Transparency Act's impact on trusts", Wolters Kluwer 13 February 2024, <https://www.wolterskluwer.com/en/expert-insights/the-corporate-transparency-acts-impact-on-trusts> [accessed 22 August 2024].
- 169 European Commission, 'New EU rules criminalising the violation of EU sanctions enter into force' 17 May 2024, https://neighbourhood-enlargement.ec.europa.eu/news/new-eu-rules-criminalising-violation-eu-sanctions-enter-force-2024-05-17_en [accessed 13 June 2024].
- 170 Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401226
- 171 European Commission, op cit.
- 172 Art. 5.
- 173 Arts 6 and 7.
- 174 Csonka P., Zoli L., op.cit.
- 175 Arts. 15, 16; Csonka P., Zoli L., op.cit.
- 176 Csonka P., Zoli L., op.cit.
- 177 Gudzowska J., Lockhart E., Keatinge T. op.cit
- 178 KPMG, op.cit. ; Elucidate, op.cit.
- 179 Gudzowska J., Lockhart E., Keatinge T. op.cit



