

The image features a background of numerous stacks of 100 US dollar bills falling from the top. The bills are shown in various orientations, creating a sense of motion. The entire scene is overlaid with a semi-transparent red filter. On the right side, there is a vertical black strip where the stacks of money are shown in their original, unfiltered colors. The word "FRANCE" is centered in the middle of the image, flanked by two horizontal white lines.

FRANCE

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France does not have a stand-alone policy prompting investigations into assets frozen under sanctions, but it has used its existing legal provisions to conduct at least 17 investigations into Russian assets.⁶² These investigations were encouraged by legal action tabled by the French NGO Transparency International France for money laundering and related offences, targeting Russian oligarchs. The investigations also follow guidance issued by the Ministry of Justice, asking authorities to prioritise investigating alerts and suspicious transactions reports regarding Russian assets and to utilise French anti-money laundering provisions in order to overcome the known challenges with autonomous investigations of foreign PEPs.

Legislative and institutional framework

To highlight the high political priority placed on investigating the sanctioned assets of Russian oligarchs, the French Minister of Justice issued a Circular on the handling of proceeds involving Russian interests in the context of international sanctions against the Russian Federation on the 3rd of March 2022.⁶³ The Circular called on the relevant judicial authorities to firstly cooperate with other governmental agencies working on tracing Russian assets of possible illicit origin, and secondly to focus on prosecuting money laundering offenses or breaches of these asset freezes.

In practice, the Circular asked judicial authorities to prioritise alerts and suspicious transactions reports linked to Russian assets that are passed on from the French Intelligence Unit - Tracfin, aiming to support "a systematic opening of legal proceedings".⁶⁴ Tracfin receives such information mainly from suspicious transaction reports from financial entities

subject to anti-money laundering regulations and has the authority to pass these on to judicial authorities and to the criminal investigation departments.

In order to aid in the identification, freezing and the potential seizure of Russian assets in France, an inter-ministerial working group established between the Public Finance Department at the Ministry of Economy and Finance, Tracfin, and the Customs Department was created. The activities of this task force focus not only on the sanctioned individuals but also on their partners, family members and companies.⁶⁵

Upon receiving alerts of Russian assets that might be "held in France under illicit conditions", the Circular then calls on the relevant authorities to utilise Article 324-1-1 of the French Penal Code when opening investigations that would demonstrate the offence of money laundering.⁶⁶ This law introduces the presumption of money laundering in cases when "the property or income is presumed to be the direct or indirect proceeds of a crime or offense when the material, legal or financial conditions of the investment, concealment or conversion operation have no other justification than to conceal the origin or beneficial owner of such property or income".⁶⁷ Therefore, French authorities can treat and prosecute money laundering as a stand-alone offence even without the need to prove the underlying predicate offence – particularly useful in cases where the offence might have happened in a foreign jurisdiction like Russia.

The establishment of money laundering offences in French legislation, and its operationalisation by the French courts, is a potentially powerful tool to prosecute opaque financial structures that are often

used by criminals worldwide to hide the illicit nature of their assets.⁶⁸ While the existence of a complex financial scheme or the use of a tax haven as a place to register a corporate entity is not itself criminalised if economic reasons can be demonstrated, if an objective justification for the transaction is lacking, it is seen as an evidence of money laundering.

Sanctions evasion in France can be prosecuted based on article L574-3 of the French Monetary and Financial Code, which refers to the provisions established in the Customs Code.⁶⁹ In cases where an individual fails to comply with sanctions freezing orders, they can face a prison sentence of five years, confiscation of property and assets which are the direct or indirect product of the offense and a fine, set, at most, at double the amount of the attempted infringement.

Investigations into assets linked to sanctioned individuals

The above-mentioned French legal provisions are currently being tested in relation to sanctioned individuals in courts through 17 criminal proceedings concerning Russian individuals. The impetus for these proceedings has been evidence and legal complaints put forward by Transparency International France⁷⁰ against five of these individuals for "money laundering, non-justification of resources, stolen goods and complicity in these three offenses" at the National Financial Prosecutor's Office (Parquet National Financier, PNF).⁷¹

The evidence tabled by the NGO opened the door for the French prosecutors to proceed further with their own investigations and led to them subsequently filing an investigation into illicit assets against 17 Russian individuals.⁷² This coordinated action is a good example of how non-governmental actors can support the investigative process via

evidence-gathering and by bringing this evidence forward to law enforcement officers. Little information has been published to date regarding who these investigations concern.

Separately, the National Jurisdiction in Charge of the Fight Against Organized Crime (JUNALCO) of the Paris prosecutor's office has successfully seized a villa owned by Viktor Rashnikov, the boss of one of the largest steel producers in Russia.⁷³ While Rashnikov's three properties in France officially linked to him had been administratively frozen since he was placed on the sanctions list, this villa initially escaped the French authorities. The villa - not held under Rashnikov's name but rather a Swiss company, further owned by a Panamanian entity - highlights challenges the French authorities grapple with to track all relevant assets that should be frozen. Because the villa was not declared to the French authorities as Rashnikov's property, it did not appear in the French beneficial ownership registry and it was not frozen immediately after the sanctions were imposed.

Additionally, in autumn 2023, the French Justice seized real estate property belonging to sanctioned Alexander Pumpysky,⁷⁴ and indicted Alexei Kuzmitchev for money laundering and tax fraud, among others, after he had been taken into custody few days earlier.⁷⁵

While it is yet to be seen how many of the 17 prosecutions will end up with a confiscation order, the French legal system is well established to mount a successful prosecution case against illicit assets frozen by sanctions. Once the French Public Prosecutor is in charge of a specific case, they have access to an array of laws and tools, including its tool of presumption of money laundering, that can be used to attempt to confiscate assets in question.⁷⁶



But the investigative process in France is not without its challenges. While the Circular from the government aimed to increase the activity to track and prosecute sanctioned individuals with unexplained wealth by opening new investigations, there is currently no policy around who to target, and it is unclear how cases are being prioritised.