

The background of the image is a dark red gradient. It is filled with numerous stacks of 100 US dollar bills, some of which are falling from the top, creating a sense of motion and abundance. The bills are rendered in a semi-transparent, light red color that blends with the background. On the right side, there is a vertical strip of black background, where the stacks of 100 dollar bills are shown in their natural colors, appearing to fall from the top edge of the frame.

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# GERMANY

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*Since 2022, Germany has made considerable changes to both its operational and legislative toolkit to enhance asset tracing, and to facilitate the opening of investigations into illicit assets frozen by sanctions. Although neither this legislation nor policies contain specific instructions or recommendations to investigate illicit wealth in connection with sanctioned assets, law enforcement authorities have tried to pursue at least one case related to sanctioned assets of potentially illicit origin.*

## Legislative and institutional framework

To remedy the perceived shortcomings in its anti-money laundering architecture and to be able to respond to the increased demands posed by the Russian sanction packages, Germany adopted Sanctions Enforcement Acts I and II, and is in the process of further legislative and institutional improvements. First, in May 2022, the Federal cabinet approved the Sanctions Enforcement Act I (Sanktionsdurchsetzungsgesetz I)<sup>77</sup> aimed at ensuring effective implementation of sanctions in Germany. Concretely, the Act aimed to improve access to existing administrative information for the agencies responsible for enforcing sanctions, and amended and extended their competencies to trace, freeze and investigate sanctioned assets. It also widened the possibilities for requesting clarification over the ownership of assets, requiring designated persons to declare their assets in Germany.<sup>78</sup>

Subsequently, the follow up legislation Sanctions Enforcement Act II (Sanktionsdurchsetzungsgesetz II)<sup>79</sup> was adopted by the German parliament in October 2022, aiming to improve sanctions implementation structures in Germany through a reorganisation and

to strengthen anti-money laundering measures more generally. The Sanctions Act II transferred the powers to trace and freeze assets from state governments to the federal government and placed them under the remit of a new Central Office for Sanctions Enforcement (Zentralstelle für Sanktionsdurchsetzung, ZfS). In order to successfully trace sanctioned assets, the ZfS can take various investigative measures, including requesting information from companies and interrogating persons to identify beneficial owners. If these asset tracing investigations indicate the existence of a criminal offence, ZfS is mandated to forward all relevant information to the competent prosecution authority.<sup>80</sup> This should facilitate administrative asset investigations into listed persons and entities and enable nationwide coordination of sanctions enforcement in Germany.<sup>81</sup> The ZfS should be hosted by the new Higher Federal Authority for Combating Financial Crime (Bundesamt zur Bekämpfung von Finanzkriminalität, BBF), which is currently under discussion in parliament.<sup>82</sup>

To support the effective enforcement of sanctions in Germany, an inter-agency task force has been set up, headed jointly by the Federal Ministry for Economic Affairs and Climate Action (BMWK) and the Federal Ministry of Finance (BMF), with the support of various federal government bodies and state representatives.<sup>83</sup> The task force is mainly a coordination body without a specific focus on asset confiscation of sanctioned assets.

In case of a suspicion of a sanction violation, this can be used as evidence of money laundering, and can trigger non-conviction-based confiscation proceedings pursuant to Section 76a (4) German Criminal Code.<sup>84</sup> This section of the criminal code can

also be used to confiscate suspicious unexplained wealth. Neither the Sanctions Enforcement Act, nor any other legislation or policies, include specific link to investigations of illegally acquired wealth in connection with sanctioned assets. The prompt to start investigative proceedings should start in cases when ZfS or any other authority finds indications the sanctioned person might be implicated in criminal behaviour.

### Investigations into assets linked to sanctioned individuals

German authorities have made several attempts to investigate possible complex money laundering cases with links to foreign sanctioned PEPs in the past, such as property linked to the Ben Ali family, the former president of Tunisia. These investigations closed without convictions and asset confiscation.<sup>85</sup> In such complex cases of potential financial crime, the federal system has proved to be a stumbling block due to difficulties in bringing together all relevant authorities and in sharing the needed information to effectively track beneficial ownership information and gather relevant evidence.<sup>86</sup> Therefore, the 2022 reforms, including the plans to create a new Federal Financial Criminal Police Office (Bundesfinanzkriminalamt) to combat financial crimes as part of the BBF, are promising developments.<sup>87</sup>

Around EUR 4.48 billion in Russian assets has been frozen in Germany. These estimates also include central bank deposits and corporate shareholdings, however, and it is unclear how much concerns sanctioned individuals.<sup>88</sup> German political figures were vocal about plans to increasingly enforce sanctions against Russia and Germany's readiness to mount criminal prosecutions, for example for false export declarations by companies.<sup>89</sup>

In September 2022 almost 150 cases were under investigation for alleged violations of EU sanctions against Russia and Belarus by the German authorities (including preliminary investigations, trying to collect evidence for enforcement action).<sup>90</sup> Most of these concern the trade sector and it is unclear how many of these exactly concern the evasion of sanctions linked to individual asset freezes.

The only publicly known active legal case related to sanctioned assets of potentially illicit origin in Germany has centred on the Russian-Uzbek businessman Alisher Usmanov. Usmanov caught the attention of authorities for possible tax fraud, money laundering and sanctions violations, with part of these investigations triggered by the Panama Papers leaks of 2016.<sup>91</sup> After Usmanov was designated in 2022, German authorities conducted raids and searches of his properties throughout Germany and have been trying to investigate Usmanov's potentially illicit wealth. Some of these searches were, however, found to be illegal by the courts months later.<sup>92</sup>

German authorities shortly investigated a possible case of sanctions evasion by Alexey Mordashov concerning the sale of his shares in the German travel company TUI to his wife the same day that he was sanctioned by the EU. The transfer of the shares was quickly determined by authorities to be "provisionally invalid" but because it seemed to have taken place exclusively in Cyprus, the German authorities didn't end up opening proceedings.<sup>93</sup>