Transparency International Anti-Corruption Helpdesk Answer

The challenges of asset freezing sanctions as an anti-corruption tool

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Date: 04 May 2022

The imposition of asset freezing sanctions has the potential to be an effective first step in addressing large-scale corruption, and legal regimes to allow for this have been established in several jurisdictions. Discussions around sanctions and the recovery of stolen assets have become particularly prevalent following the 2022 Russian invasion of Ukraine. Several challenges exist in relation to the use of sanctions as an anti-corruption tool. Importantly, in most jurisdictions there is no legal or policy link between the political decision to impose sanctions and the opening of anti-corruption investigations by authorities.

This Helpdesk Answer only deals with sanctions that impose an asset freeze and does not relate to other forms of sanctions. It further only looks at those sanctions targeting individuals and specific entities and not those directed at whole or sectors of an economy or that freeze assets belonging to state agencies, such as foreign reserves of central banks.

The Anti-Corruption Helpdesk is operated by Transparency International and funded by the European Union.

Query

What challenges exist in relation to the use of asset freezing sanction regimes to support anti-corruption investigations to seize and confiscate ill-gotten gains?

Contents

Main points

— Asset freezing sanctions are a potent tool which, when deployed correctly, can be used to fix potentially stolen assets in place and thereby grant law enforcement bodies sufficient time and powers to investigate the source of these assets.

— However, in most jurisdictions that have announced asset freezing sanctions in the aftermath of the Russian invasion of Ukraine, the capacity or intention to use these measures to identify and ultimately confiscate assets deemed to be the proceeds of corruption remains unclear.

— Experience with sanctions regimes imposed in the past has shown that - potentially as a result of this failure to follow up on sanctions with investigations into the source of these assets - jurisdictions imposing sanctions are also likely to face legal and political challenges to their efforts to confiscate these assets.

Introduction

The question of whether sanctions can be used as a means of supporting anti-corruption efforts is not a new one. Nonetheless, since the invasion of Ukraine by Russian troops in February 2022, it is a question that has gained increased traction as sanctions have been imposed against hundreds of Russian citizens and entities, chiefly by Western governments.

In imposing sanctions, these governments have expressed their desire to use economic, coercive means to halt and reverse the Russian government's actions(See EU Council 2022b; UK Government n.d.). As such, these measures are primarily political in nature in that they serve a strategic purpose. Nonetheless, now that a large number of assets have been frozen, questions have arisen regarding the origin of these assets, and extent to which some of the individuals sanctioned may have been stashing ill-gotten gains abroad and enjoying the proceeds of corruption in Europe, North America and Australia.

While the possibility to impose sanctions, including specifically for corruption, has existed in the US, EU, Switzerland, Canada, Australia and UK for many years, recent developments have seen the

more widespread introduction of Magnitsky-style sanctions that establish criteria related to corruption and human rights violations that can trigger the imposition of sanctions.

Despite their rapid introduction and the high levels of political support that exist for them, the question remains whether these sanctions will lead to investigations into the origins of these sanctioned assets and ultimately to their confiscation. It remains to be seen whether these sanctions regimes will remain temporary measures intended solely to stop the conflict in Ukraine, or whether they will lead to a fundamental reassessment over the relationship of sanctioning jurisdictions to the influx of foreign wealth potentially acquired through corruption.

Overview of sanctions

Asset freezing sanctions are typically **administrative measures** imposed by a government and targeting individuals or entities. Important to note here is that they are **not usually a judicial measure** and do not require the approval of a court, nor are they bound by rules relating to legal procedural processes that exist for asset freezes imposed by a court. As an administrative measure, they are imposed and removed through a political decision made by the executive branch of government, with some exceptions, under the conditions laid down in the framework legislation (Michaelsen, 2022; LexisNexis, n.d.; BBC News, 2022).

Sanctions can form part of measures that target whole countries or specific sectors, such as oil or gold (Willn and Donaldson, 2020). However, this Helpdesk Answer only addresses asset freezing sanctions imposed on specific persons or entities.

A key part in relation to the administrative rather than judicial nature of sanctions and their existence as a foreign policy tool is that often there is no time limit to sanctions, and indeed sanctions have lasted several decades in some cases (Bolks and Al-Sowayel 2000). That does not mean that they cannot include some element of timeframe: periodic renewal may be part of the enabling legislation or identified directly in the sanction order, this will be discussed below.

However, the difference here is that sanctions are not subject to usual rules on judicial asset freezes that may be found elsewhere in legislation that allows for the freezing of assets in relation to certain economic crimes or, for example, in the case of divorce or bankruptcy for a period of time and subject to certain procedures and safeguards.

Despite this, sanctions can be subject to legal challenge. As will be discussed below, in fact there have been several instances of sanctioned persons successfully challenging their designation on sanctions lists.

Unlike other measures, sanctions also normally do not relate to specific assets and nor do they form part of ongoing investigations. Rather, they identify individuals whose assets should be frozen and require institutions who either hold their assets or who maintain a business or commercial relationship with them to impose the freezes. Banks, for example, should prevent transactions to or from accounts relating to that individual, subject to certain exceptions, and financial actors should cease doing business with them (CiFAR 2020a).

This may also require public institutions to take over the management or running of frozen assets, for example running a business to ensure it remains profitable or maintaining vehicles (Basel

Institute on Governance 2021). Related to this, it is important to note that while they are in some ways quasi-criminal measures, they do not imply guilt *per se*. They are political decisions relating to a political situation and if the political situation changes and there is no further investigation or if the individual is not found guilty of a crime and a confiscation order issued by a court, the default legal outcome is that the assets will eventually be returned to them (Lowe 2014).

It is also important to note that the imposition of sanctions does not automatically mean that there can be no use of frozen assets. Typically, sanctioned individuals can remain in properties they live in and can have access to funds for their daily livelihood and to pay for lawyers, including to challenge the sanctions, for example (Simmons, Webster, and Spinks 2021). These exceptions are usually codified in legislation, as discussed below, and often are limited in nature.

A final point to note is that while the terms 'frozen' or 'seized' may be used in connection to sanctions, they can mean the same thing at a conceptual level – the asset is removed from unfettered use by its owner. Freezing tends to apply to situations where an order is issued to prohibit the use of the asset and private individuals and entities are thereby enjoined to enforce that prohibition, for example through limiting use of a bank account to exceptions listed under sanction regimes. Seizure tends to relate to physical assets that are taken into the custody and then managed by public authorities, for example motorcars or yachts (Basel Institute on Governance 2021). The term is also used in the context of civil or criminal procedures, where moveable or immoveable assets are taken into custody by public authorities until a final court decision on their confiscation is made.

Comparison between sanctions and other anti-corruption tools

While sanctions have a similar purpose to judicial freezing or seizure orders, in that they are designed to prevent the removal or hiding of assets, they are substantively different from a legal perspective. Sanctions indicate political displeasure with a regime or support for a new regime and are imposed administratively (Cizmaziova 2021a, 8), while judicial freezing or seizure orders form part of ongoing investigations and are usually time limited and subject to minimal levels of proof on the part of prosecuting authorities and other procedural safeguards (see Murray and Stocks 2021).

Sanctions under the UK's Global Anti-Corruption Sanctions, for example and as described below, can be imposed at the discretion of a Minister as long as certain conditions are met, which are broad in scope. There is no time limitation for the sanctions to remain in force and there is no direct court approval needed to institute the sanctions. The only requirement is for the periodic review of the designation every three years under Article 24 of the 2018 Sanctions and Anti-Money Laundering Act.

In comparison, asset freezes relating to the proceeds of crime are imposed via the provisions of the 2002 Proceeds of Crime Act and must form part of an ongoing investigation. Art. 41 of the Act requires an order from the Crown Court (first instance criminal court) for the prohibiting of a person from dealing with their property, i.e. a restraint order on their assets. Under subsection 7 (b) of this Article, the prosecuting authority must regularly report to the court on the progress of the investigation and the court must end the order if proceedings for the offence in question are not

started after a reasonable time (UK Government 2002). This order can only be made, under Art. 40, when either a criminal investigation has begun, or will begin and there are reasonable grounds to believe that the defendant has benefited from their criminal conduct. It further specifies that a freezing order shall not be made if there has been an undue delay in proceedings or the prosecution service does not intend to proceed with the case (UK Government n.d.).

The imposition of sanctions, while able to form part of a corruption investigation and eventual confiscation and recovery of the proceeds of corruption, is thus a separate process from a legal perspective.

Confiscation of stolen assets is the end process of criminal case through which a defendant is found guilty of corruption or another offence can be part of a civil case initiated by authorities, where allowed by law, and where the respondent[1] is found more likely than not to have obtained the money illicitly. Confiscation means that the assets that are the subject of the confiscation order as an outcome of the criminal or civil process are permanently removed from the individual. These assets can then be part of a process of domestic or international restitution to the victims of that crime (Lawants 2020).

Sanctions are also wholly separate to tools such as unexplained wealth orders or illicit enrichment provisions. These are tools that enable the burden of proof to be reversed in certain circumstances and that thereby require the defendant to show how they have obtained their wealth (Dornbierer 2021). Sanctions themselves are not a basis for implying that wealth was illicitly acquired.

Legal basis for the application of sanctions

Sanctions as a tool to express political displeasure or support for a new government have been in use for a long period of time and exist at varying levels. Nevertheless, in the past two decades there has been a growth in the development of legislative frameworks to allow for national level sanctions to be introduced for those involved in corruption or human rights violations. This section outlines the legal basis for sanctions across the UN, EU and several other key jurisdictions that have applied sanctions on Russian individuals and entities since the invasion of Ukraine.

United Nations Sanctions

Sanctions as a tool of coercion against countries and individuals are one of the measures the UN Security Council is able to take under Art. 41 of the UN Charter. These can be applied in order to maintain or restore international peace and security and have been applied 30 times in the history of the UN, including with respect to South Africa, Rwanda, Sierra Leone, and Iran, as well as against ISIL (Da'esh) and Al-Qaida and the Taliban. They have included economic and trade sanctions, arms embargoes, travel bans, and financial or commodity restrictions (United Nations Security Council n.d.). As with all Security Council measures, they require that none of the five permanent members (China, France, Russia, the UK and the US) veto the measure. Once applied,

[1] *The respondent is the natural or legal person defending the case brought against them.*

all UN Member States are required to implement them, meaning that they have global reach.

While these regimes have tended to focus broadly to assets of a particular country or specifically at the assets of persons suspected of terrorism, the Security Council has also issued freezing orders related to specific individuals (See e.g.: United Nations Security Council n.d.; CiFAR 2020b).

European Union

Sanctions at the EU level have traditionally been applied through its Common Foreign and Security Policy (CFSP) and specifically under Article 215 (3) of the Treaty on the Functioning of the European Union. This Article gives the Council the power to reduce or interrupt financial relations with third states and adopt restrictive measures against natural or legal persons. The EU has adopted sanctions of this sort for several decades, with recommendations made to the Council for EU-wide freezes largely focussing on the country level and coming out of the recommendations of geographical working groups within the Council (Portela 2019, 1–3).

In 2011, the EU for the first time introduced sanctions specifically relating to corruption – termed misappropriation – relating to the former leaders of Egypt and Tunisia, top regime officials and their families and associates. In 2014, it employed the same approach in relation to the former top government officials of Ukraine. These regimes led to the sanctioning of 48 persons relating to Tunisia, 19 relating to Egypt and 22 relating to Ukraine (Portela 2019, 21–26). In March 2021, all sanctions against Egyptian persons were lifted, with the European Council suggesting that they have served their purpose (EU Council 2021a), and 43 and 8 persons remain on the respective Tunisia and Ukraine designation lists (CiFAR 2021).

In 2020, the EU introduced a new regime for imposing sanctions for individuals suspected of involvement in human rights abuses: the EU Global Human Rights Sanctions Regime. The regime does not replace the above system, but additionally allows for the imposition of sanctions against accused human rights abusers. While strong calls were made to link the sanctions to asset recovery and to persons suspected of committing acts of corruption, similarly to the US Global Magnitsky sanctions described below, these were not included in the final regime (Cizmaziova 2021a, 12; Borell 2020).

Sanctions relating to the Russian invasion of Ukraine have not been listed from the new Global Human Rights Sanction process and rather have been included as an enlargement of the scope of the existing country-level sanctions applied after Russia's annexation of Crimea in 2014 (EU Council 2022b).

US

Sanctions in the US are similarly varied in nature and run across several regimes – termed programmes – and involve many differing pieces of legislation, with several being based on the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§ 1701-1706 and specific further legislation or presidential declaration. This includes programmes relating to individual countries, such as the Iran sanctions (US Department of the Treasury 2022) and programmes relating to cross-cutting issues, such as Counter Terrorism Sanctions (U.S. Department of the Treasury 2022b).

The most well-known programme relating to kleptocracy employed by the US is the Global Magnitsky Human Rights Accountability Act. As with the EU's Global Human Rights Sanctions, according to Cizmaziova (2021: 10) this

> "is a horizontal targeted sanctions regime that allows the imposition of sanctions on individuals outside of any national sanctions programme in place, thus separating the decision to sanction personal misconduct from considerations regarding the political situation and diplomatic relationship with the country of origin of that person".

In other words, it targets individuals suspected of involvement in human rights abuses and in corruption, and imposes asset freezes against those involved, without needing a country-specific sanctioning regime in place. It also includes a process for de-listing from the sanctions, in cases of a significant change in behaviour of the designee, as well as when there is prosecution for the wrongdoing for which sanctions were imposed (Cizmaziova 2021a, 11).

As in all the jurisdictions discussed here, sanctions imposed in respect of the invasion of Ukraine have been designated under the country-level regime. Again, in this case, as an extension of existing sanctions imposed after the annexation of Crimea. The legal basis for these sanctions are a collection of Executive Orders, as well as the Countering America's Adversaries Through Sanctions Act (CAATSA), PL 115-44, Ukraine Freedom Support Act of 2014 (UFSA), Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (SSIDES), International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§ 1701-1706, and National Emergencies Act (NEA), 50 U.S.C. §§ 1601-1651 (U.S. Department of the Treasury 2022c).

UK

Sanctions in the UK are primarily imposed under the Sanctions and Anti-Money Laundering Act 2018 (the Sanctions Act), as well as in some situations the Export Control Order 2008 and the Anti-Terrorism, Crime and Security Act 2001 (UK Government n.d.)

The Sanctions and Anti-Money Laundering Act gives UK ministers the power to implement sanctions for a wide range of purposes. Under Art. 1 (1) this includes compliance with a UN obligation or with any other international obligation, and under (2) this includes prevention of terrorism, national security, international peace and security, furtherance of a foreign policy objective, the resolution of armed conflicts or the protection of civilians in conflict zones, accountability for or to deter gross violations of human rights, or otherwise promote compliance with international human rights law or respect for human rights, the promotion of compliance with international humanitarian law, contributing to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or promoting respect for democracy, the rule of law and good governance. These sanctions can include under Art. 1 (5), financial, immigration, aircraft, trade or shipping sanctions, amongst others, and the Act sets out the process under which designation takes place (Arts. 10-12).

Following the invasion of Ukraine, the UK amended the rules for sanctioning under these regimes through the Economic Crime (Transparency and Enforcement) Act 2022 to introduce an 'urgent procedure', which allows the

appropriate minister to designate a person speedily when already sanctioned in the United States, European Union, Australia, or Canada, and where it is in the public interest (Ruck and Naylor 2022).

The UK also has two specific regimes for horizontal sanctions. The Global Human Rights Sanctions aim to deter and provide accountability for actions that seriously violate the rights to life, freedom from torture or freedom from slavery (UK Government n.d.). More relevant for the fight against corruption are the Global Anti-Corruption Sanctions. These were introduced in 2021 to prevent and combat serious corruption and replaced the former misappropriation sanctions regime on the UK's exit from the EU (UK Government n.d.). This regime allows ministers to impose sanctions where there is a reasonable suspicion that the person has been involved in serious corruption and when the designation would be appropriate to preventing serious corruption and is likely to have a significant effect on the person. The regulations further specify what is likely to constitute serious corruption, for example where it fuels international security threats or undermines the sustainable development goals, and requires consideration of the scope of the corruption, including for example whether the conduct is systemic or whether the corruption is of an amount significant to the local context (UK Government n.d.).

The most recent freezing orders against Russian individuals in respect of the invasion of Ukraine have not been specifically enacted under the Global Anti-Corruption Sanctions or Global Human Rights Sanctions regimes, rather as in other jurisdictions, they have been enacted under the country-specific sanctions that have been in place since 2014 following the annexation of Crimea (Mills 2022).

Australia

In addition to implementing UN sanctions, Australia has its own sanctions regime, established under the Autonomous Sanctions Act 2011 (the Autonomous Act) and the Australian Autonomous Sanctions Regulations 2011 (Australian Government Department of Foreign Affairs and Trade n.d.). Sanctions regimes relating to this cover several country situations, such as sanctions relating to Myanmar or Libya, and thematic issues, including significant cyber incidents (Australian Government Department of Foreign Affairs and Trade n.d.).

In 2021, Australia amended the Autonomous Sanctions Act to allow for thematic sanctions which, along with cyber incidents, also included the ability to sanction individuals or entities engaged in serious violations or serious abuses of human rights or involved or complicit in serious corruption (Petterd 2021). Serious corruption sanctions can be imposed if the Minister for Foreign Affairs is satisfied that the individual or entity has engaged in, has been responsible for, or has been complicit in an act of corruption that is serious. Corruption here is defined as bribery or misappropriation of property and these designations are limited to "the most egregious situations of international concern". In terms of process, the Minister for Foreign Affairs must obtain written agreement from the Attorney-General and consult other ministers, as appropriate (Australian Government Department of Foreign Affairs and Trade 2021).

Similarly to other countries, Australia did not use these serious corruption sanctions in the case of

the invasion of Ukraine in 2022 and rather extended its existing sanctions in relation to the annexation of Crimea (Australian Government Department of Foreign Affairs and Trade 2022).

Canada

Aside from UN sanctions, sanctions can be issued in Canada under the Special Economic Measures Act (SEMA) or the Justice for Victims of Corrupt Foreign Officials Act (JVCFOA). It is also able to freeze the assets of politically exposed foreign persons, including government officials or politicians, at the request of a country undergoing internal turmoil or political uncertainty under the Freezing Assets of Corrupt Foreign Officials Act (Government of Canada n.d.).

The general sanctions regime under the SEMA allows for the Canadian government to issue sanctions to give effect to a decision of an international organisation or where a 'grave breach of international peace and security has occurred that has resulted or is likely to result in a serious international crisis' (Foreign Affairs and International Development, Standing Committee 2017). The sanctions made under this regime can restrict or prohibit dealings in property and the provision of financial services, amongst other measures, in relation to that individual or entity (Foreign Affairs and International Development, Standing Committee 2017).

The JVCFOA is Canada's version of the US' Global Magnitsky Act and allows for horizontal sanctions against foreign nationals who are considered responsible for, or complicit in, gross violations of human rights; or are public officials or an associate of such an official, who are responsible for or complicit in acts of significant corruption (Global Affairs Canada 2015c).

Measures under the Freezing Assets of Corrupt Foreign Officials Act are similar to those applied by the EU in relation to Egypt, Tunisia and Ukraine and were applied to the same three countries. These are still in force for officials from Tunisia and Ukraine, but were repealed with respect to Egypt in 2016 (Global Affairs Canada 2018a; 2018b; 2015a)

As with other countries here, sanctions against individuals and entities linked to the Russian invasion of Ukraine have been made under the SEMA (Global Affairs Canada 2015b), rather than the JVCFOA.

Switzerland

Switzerland is able to issue sanctions generally under the Federal Constitution in relation to specific country situations (Portela 2019, 16–17), and specific horizontal sanctions are separate to those targeting particular countries using the 2016 Federal Act on the Freezing and Restitution of Illicit Assets (Foreign Illicit Assets Act). This Act allows Switzerland to order the freezing of assets of politically exposed persons when there is reason to believe that those assets were acquired through corruption and can be imposed for the purposes of mutual legal assistance or of domestic confiscation where cooperation from the country where the corruption took place fails or is not initiated.

It requires four, cumulative steps to be initiated: 1) the foreign government must have lost or be about to lose power; 2) the level of corruption in the country of origin must be notoriously high; 3) it must be likely that the assets were acquired criminally; and 4) the freezing action must be required to safeguard Switzerland's interests. All four of these steps must be fulfilled. (Cizmaziova

2021a, 10–11). While it does not require an investigation, the Foreign Illicit Assets Act includes in Section 4 procedures related to the confiscation of stolen assets, including the ability to initiate an investigation and conditions for the presumption of illicit origin (Arts. 14, 15). Alone of the examples listed above then, this sanctions regime links the sanctioning of assets to the initiation of investigations and proceedings into possible corruption.

Russia sanctions in Switzerland, similarly to other countries, have been established under general sanction rules, specifically in this case Article 184 (3) of the Swiss Federal Constitution and Article 2 of the 2002 Embargo Law (Embargogesetz) (Government of Switzerland 2022). These are issued under an amended Ordinance on measures in connection with the situation in Ukraine, first promulgated in 2014 (White & Case 2022).

Enforcement mechanisms and consequences of breaches by individuals and entitities doing business with sanctioned individuals

When sanctions are applied, there will be a general prohibition on dealing with the person or entity named in the sanction, as well as economic resources owned or controlled by them. It would also normally be prohibited to act on behalf of that person, make resources directly or indirectly available to them or take any measures that would circumvent the sanctions (Simmons, Webster, and Spinks 2021). For the private sector, this may require policies to ensure that due diligence obligations are met with regards to sanctions, including maintaining lists of sanctioned persons and ensuring staff are aware of prohibitions in dealing with those persons (CiFAR 2020a).

In the US, the Office of Foreign Assets Control (OFAC) is responsible for administering and enforcing sanctions (U.S. Department of the Treasury n.d.). When a person or entity is sanctioned in the US, parties contracting with a designated individual or entity are required to terminate all contracts, cease all services, ensure compliance with ongoing legal obligations in relation to the frozen assets (e.g., maintenance of crew for vessels) and notify OFAC of all actions taken (Willn and Donaldson 2020). Financial institutions are also required to report suspicious transactions and activities (Hayes et al. 2022).

In implementing EU sanctions, Germany has clarified that the freezing orders established at the European level apply directly and should be implemented by concerned entities without the need for further instructions from German authorities. Federal authorities have further highlighted that “commercial banks, insurance companies and other economic operators are responsible in operational terms for complying with the requirements to freeze assets once the respective EU legal instrument has entered into force” and that they should report on this to the German Central Bank (Bundesministerium der Finanzen 2022). This then includes professionals and entities with anti-money laundering obligations, such as lawyers, accountants, notaries, and real estate agents.

Similarly the Central Bank of the Netherlands has highlighted that any institutions it supervises should check whether the regulations apply to their customers, members or investments made, and if so immediately comply with the orders and prohibitions set out, and report any frozen funds to them (De Nederlandsche Bank 2022).

Under UK rules, in addition to freezing assets, companies are required to submit a report to the Office of Financial Sanctions Implementation (OSFI) if they suspect a customer is a designated person under the regime and the industry regulatory body for solicitors has announced it is carrying out spot checks to ensure compliance amongst its members (Solicitors Regulation Authority 2022).

Under the Swiss *Ordinance on measures in connection with the situation in Ukraine*, there is an obligation on institutions holding assets of persons subject to freezing orders to inform the State Secretariat for Economic Affairs (Art. 16), and there are several obligations to prevent dealing with and financially transacting with designated persons (e.g. Arts. 17-19).

Canada's JVCFOA prohibits persons in Canada and Canadians outside Canada from dealing with the listed foreign nationals, entering into or facilitating a financial transaction with them, providing services or making property available to them (Global Affairs Canada 2015c). Regulations under the SEMA typically impose a "duty to determine" on certain financial institutions that requires them to 'ensure, on a continuing basis, that they do not possess or control property related to a designated individual or entity' (Foreign Affairs and International Development, Standing Committee 2017). Anyone in Canada with information regarding such property or related transactions is also required to report this to the Royal Canadian Mounted Police (Foreign Affairs and International Development, Standing Committee 2017).

Breaching these rules may have adverse consequences for those involved. Under the UK regime, the OSFI is responsible for enforcement and persons or entities involved in breaching financial sanctions can face financial penalties of up to 50% of the funds in question relating to the breach or GBP 1 million, whichever is higher, and a prison sentence of up to 7 years. OSFI has statutory powers to compel the production and sharing of information relating to individuals and their assets (Office of Financial Sanctions Implementation 2022). These penalties were adjusted in 2022 following the imposition of the new sanctions relating to Russia's invasion of Ukraine to change the standard of liability. This removed a defence of unknowing or unintentional breaching of sanctions in the case of financial penalties and allows the OSFI to publicise a breach and name the person or entity involved, even where no fine is imposed (Ruck and Naylor 2022).

In the US, the consequences for a non-sanctioned legal entity transacting with a sanctioned individual or company in breach of the terms of the sanctions can include that the entity itself will be added to the sanctions list and subject to sanctions (Willn and Donaldson 2020). US authorities have also brought actions to seek forfeiture of monies obtained through breaching sanction rules (Justice Department (US) 2020) and OFAC regularly publishes the details of civil penalties and enforcement in relation to sanctions breaches (U.S. Department of the Treasury 2022a).

In Australia, contravening a sanctions measure can lead to up to ten years in prison and substantial fines. Similar penalties exist for providing false or misleading information in relation to sanctions (Australian Government Department of Foreign Affairs and Trade n.d.). Fines for individuals for each breach can be up to three

times the value of the transaction or AUD 555,000, whichever is greater, for companies this climbs to three times the value of the transaction or AUD 2.22 million, whichever is greater (Christopher Kerrigan et al. 2022).

Timeframes and exceptions

Sanctions regimes do not tend to have a maximum period for their application, meaning that in principle the regime can exist for the whole life of an individual or existence of an entity. They may, nevertheless, include review periods, upon which persons with designating power will be required to review the sanctions and determine whether they are still necessary.

Article 24 of the UK's Sanctions Act, for example, requires a review of designations every three years. Similarly, Art. 9 of Australia's Autonomous Sanctions Regulations 2011, expanding on provisions in its Act, specifies that sanctions are immediately lifted three years after designation without a further declaration.

For the US' Specially Designated Nationals list there is no specific timeframe, with OFAC highlighting that: "there is no predetermined timetable, but rather names are added or removed as necessary and appropriate" (U.S. Department of the Treasury 2002). General sanctions adopted by the EU similarly do not have to have a mandated specific timeframe, with the 2018 Guidelines on the implementation and evaluation of restrictive measures (sanctions), merely specifying that the Council should keep the situation under review, schedule a specific review where the political context has changed, and that the legal instrument should have a review clause or expiration date (European Council 2018, 14). In this regard, the sanctions imposed following the Russian invasion of Ukraine in 2022 are reviewed every six months (European Council 2022). Sanctions adopted under the Global Human Rights Sanctions Regime are however subject to an annual review (European Council 2021).

Exceptions to the asset freeze may be allowed under the specific rules of the sanction regime. Typically, these exceptions allow for the general maintenance of life of those sanctioned, e.g. housing and food costs, as well as for their use to pay legal fees, including fees that challenge the sanction order itself.

For example, under the UK's Sanctions Act, Art. 15 includes the possibility for exceptions and licences to the sanctions. The UK government has specified that licences are usually granted for issues such as: covering expenses such as food, rent and medicines (referred to as basic needs), reasonable professional legal fees or reasonable expenses associated with the provision of legal services, and for prior obligations if the obligation or contract started before the sanction was imposed (UK Government 2022). Similarly, persons and entities subject to US sanctions can apply to OFAC for a licence. This can either be general, authorising a particular type of transaction for a class of persons without the need to apply further, or specific, relating to a particular person or entity, authorising a particular transaction (U.S. Department of the Treasury n.d.). The Australian regime includes a series of permits, for similar activities, that normally last for 180 days (Australian Government Department of Foreign Affairs and Trade n.d.).

Relationship between sanctions and investigations into potential corruption

As described above, there is frequently no formal legislative link between the imposition of sanctions and the opening of investigations into possible corruption or other wrongdoing on the part of those sanctioned. This means that the imposition of sanctions is seen as a legally separate act and does not trigger any action by law enforcement into the origin of frozen funds.

The exception to this is the Swiss Foreign Illicit Assets Act, which, as discussed above, mandates authorities to begin efforts to cooperate with the country where the corruption occurred. Where this cooperation with the country of origin has definitively failed and under the conditions outlined earlier, it provides the basis for Swiss authorities to unilaterally take steps towards investigating and prosecuting the person whose assets have been frozen, with the aim ultimately being to confiscate and recover stolen funds (Federal Department of Foreign Affairs (FDFA), n.d., 29; Pavlidis 2021, 6). This does not mean that they have to begin investigations, but it does conceptually link sanctions to the idea of further and autonomous investigations by law enforcement.

Nevertheless, some countries do seem to be using sanctions as the basis to investigate, prosecute, confiscate, and return assets stolen through corruption.

In the wake of the Russian invasion of Ukraine, the US, for example, established the Task Force KleptoCapture. This interagency law enforcement body aims to secure compliance with sanctions, export restrictions, and economic countermeasures established following the war. It sits within the office of the Deputy Attorney General and is tasked with investigating and prosecuting violations of current and future sanctions relating to the invasion of Ukraine, and prior sanctions imposed in relation to Russia and in relation to corruption, to combat efforts to evade sanctions, to act against the use of cryptocurrency to undermine sanctions, and to use civil and criminal asset forfeiture proceedings to ultimately confiscate assets belong to sanctioned persons or identified as the proceeds of unlawful conduct (U.S. Department of Justice 2022). The task force is being headed up by a former prosecutor and has been initially focussed on “trying to find yachts, airplanes and other moveable property before it can be moved into jurisdictions where it might be more difficult for U.S. authorities to investigate” (Barr 2022; Barr, Katersky, and Mallin 2022).

Part of the purpose of the EU Misappropriation Sanctions Regime for Egypt, Tunisia and Ukraine was also to ensure that assets were frozen for the purpose of eventual return after the conclusion of prosecutions in the country of origin (Portela 2019, 27). Nevertheless, the failure to link sanctions to corruption investigations in the countries of destination – within the EU – has been criticised as one of the main challenges of that regime (Cizmaziova 2021b).

Challenges with sanctions regimes as an anti-corruption tool

There are several key considerations when reflecting on sanctions and their relationship to anti-corruption efforts. On the one hand, these can be seen as limitations to attempts to leverage sanctions as an anti-corruption tool, but on the other can be seen as areas where effort should be

made to ensure that sanctions *can* be useful to anti-corruption practitioners.

Often no automatic link to an investigation

As described above, in most jurisdictions there is no legislative or policy link between sanctions and corruption investigations. In other words, there is no legal requirement to open a police or judicial investigation when someone is sanctioned, and nor is there a proactive policy designed to trigger authorities to consider whether an investigation would be warranted. Without a legal framework, authorities may be barred from opening investigations without evidence of wrongdoing.

In situations in which the country where the assets were potentially stolen is unable or unwilling to launch an investigation, without a legal or policy-based trigger for an investigation in the country of destination, there is the risk that assets remain frozen for an extended period of time and are ultimately returned to individuals suspected of having obtained them through criminal means.

Compounding this in the case of sanctions against Russia are the challenges any investigation would bring. Without the cooperation of Russian authorities and given the historical nature of suspected corruption and the potential that illicit funds have by now been laundered many times over through legitimate businesses and complex structures, the possibilities of identifying the proceeds of corruption are also fraught with difficulties (Nizzero 2022). This underscores the importance of civil law approaches or approaches that reverse the burden of proof in terms of unexplained wealth.

Political nature of sanctions

The fact that sanctions are a political, rather than a legal tool, has also been identified as a challenge in relation to anti-corruption work. In discussing UN sanctions, for example, it has been highlighted that there has been a lack of deliberation over the evidence supporting a person being designated under the sanctions regime. There is also the risk that persons may be targeted due to geopolitical concerns, even when under specific sanctions regimes, rather than for the reasons for which the sanctions regime was created. Related to this is that there is frequently little in the way of due process procedure for raising objections, particularly at the UN level where there is no recourse to a domestic court (Lowe 2014). In this light, the European Court of Human Rights has emphasised that not only should there be protection of the right to effective remedies and judicial review when imposing sanctions, but that there should also be time limits and respect for the principles of legality and proportionality (Pavlidis 2021, 4).

There has also been resistance in some countries to the imposition of sanctions against individuals suspected of corruption or human rights violations, with sanctions being considered an intervention into the internal affairs of that country. In Kenya, for example, sanctions have sometimes been associated by politicians and in the media with political coercion and attempts to align domestic priorities with those of powerful countries. Consequently, there is a risk that sanctions regimes may both result in a lack of public support for investigating potentially corrupt individuals and a lack of political will by investigating authorities keen to avoid the perception of being instructed to act by foreign governments (Prusa 2020, 9–11)

Regarding the Russian sanctions, concerns have further been raised that proposed actions towards confiscation may face challenge under human rights norms. Proposals in the UK, for example, to seize the properties of frozen oligarchs to house Ukrainian refugees have been cited as an example where actions may face legal challenge. In this case, such measures could impact property and due process rights as properties in question have not yet been subject to a judicial process ordering their temporary use or their confiscation (Nizzero 2022).

Legal challenges

A further challenge has been the extent to which sanctioned individuals have been able to challenge their designation on sanctions lists and the difficulties authorities have had in substantiating justification for the sanctions in some cases.

Under the EU misappropriation sanctions for example, the European Council has found itself frequently subject to legal vulnerability on the imposition of sanctions at the Court of Justice. Unlike other sanctions, these have been imposed at the request, or based on evidence provided, by the countries where the corruption occurred. This has meant that the EU has not always had sufficient evidence to meet the standards needed by the Court of Justice to keep freezes in place when faced with substantial legal challenges from persons sanctioned (Portela 2019, 27). In the case of the EU's misappropriation sanctions relating to Ukraine, for example, all 22 listed persons challenged their designation, some of whom were successful in annulling or partially annulling their sanctions (Cizmaziova 2021b).

A corollary to this is that due to the often-large value of funds frozen under sanctions and the exceptions allowed for legal defences, sanctioned persons have been able to hire substantial legal teams and devote their considerable resources to fighting sanctions, which may also have considerable cost to the sanctioning jurisdiction (See, e.g.: Rozenberg 2022).

Difficulties in implementing sanctions, especially where disguised ownership structures exist

A final challenge in using sanctions as an anti-corruption tool is in the logistical difficulties of implementing sanctions effectively prior to having opened an investigation to identify potential assets related to suspected designated individuals. While some assets may be easy to identify, others may lie behind disguised ownership structures or may be in forms where ownership is not a clearly identifiable for those who may engage with the asset. This challenge has been particularly noted in identifying the real owners of superyachts seized as part of the Russian sanctions (Nizzero 2022) and in unravelling the layers of ownership structures around certain assets (Shah, Carpenter, and Schmidt 2022).

This is made more difficult when authorities do not have the mandate or sufficient resources to identify assets directly or potentially relating to a sanctioned individual or when there are limitations on public information that makes it harder also for journalists and civil society to do scrutinise data. For example, when beneficial ownership registers are not public or when there are fees or other restrictions to access property registers There have been allegations, for example, of sanctions breaches of assets frozen under the EU's misappropriation regime for Egypt continuing to be used in possible violation of sanction rules (Brutelle 2021).

In relation to this, research indicates that, particularly when countries have implemented multiple and extensive sanctions campaigns, there is a greater risk that enforcement fails as monitoring is spread too thin and as implementation tends to be of a lesser priority. So too are there challenges when too many agencies are responsible for ensuring compliance with sanctions (Early 2016: 69).

In terms of disguised ownership and the challenges this brings in implementing sanctions, both Transparency International (TI) and the Tax Justice Network have highlighted that this has been compounded by the fact that assets such as yachts are often purchased "through anonymous companies which are often registered in secrecy jurisdictions"(Transparency International 2022) and that no jurisdiction currently "requires information to be registered on the beneficial owners of all types of assets, such as real estate, yachts, private jets and art" (Tax Justice Network 2022: 3).

Further issues highlighted included that foreign entities are often exempt from declaring the beneficial owners of their local assets within a jurisdiction; that there is little transparency around trusts, which are often used to disguise assets; that no jurisdiction requires complete beneficial information for companies listed on their stock exchanges or for investment funds; and that nominees, bearer shares and stolen or rented identities continue to be allowed in many jurisdictions sanctions (Tax Justice Network 2022, 3–10; Transparency International 2022).

Both TI and the Tax Justice Network propose measures that can be taken to address these issues. This includes more immediate responses, such as analysing SWIFT data and building-on the work of, broadening the membership, and increasing information sharing within the transatlantic task force, and more medium- to long-term responses, such as establishing central, public registers of beneficial ownership and decreasing ownership thresholds relating to beneficial owners, increasing trust transparency, increasing checks over the luxury goods and real estate sectors, addressing secrecy in hedge funds, private equity and other investment funds, expanding triggers for reporting on suspicious activity to authorities, and better accountability for enablers of corruption (Transparency International 2022; Tax Justice Network 2022, 3–10).

Conclusions

As outlined above, asset freezing sanctions are a potent tool which, when deployed correctly, can be used to address kleptocratic practices and restrain the movement of potentially stolen assets to enable investigations into potential corruption to be carried out effectively.

The invasion of Ukraine by Russia has seen many high-ranked Russian officials and individuals close to the Kremlin added to these sanctions lists. These individuals have not though been added under sanctions regimes relating to corruption and instead are additions to country lists already directed at Russia, following the annexation of Crimea. While at the political level these sanctions are being heralded as an important policy tool to deter Russian aggression, the relationship between these sanctions and any eventual investigation, confiscation and recovery of assets identified as the proceeds of corruption remains therefore unclear in most jurisdictions.

Gaps exist in law and policy in triggering a formal anti-corruption investigation in the case of the

imposition of sanctions in most jurisdictions. Further, the experience of the last range of broad sanctions applied – those against the former regime officials of Egypt, Tunisia, and Ukraine – demonstrates that there is a risk that any sanctions will not be fully implemented and weaknesses in investigating and monitoring mean that some assets may continue to be used by those listed or further hidden. Sanctions are also likely to face legal challenge by those listed and, if the reasoning for them is not clearly made by the designating authorities, may end up being lifted by judicial order. As a political, rather than a legal tool, there is also the risk that they will be perceived as an instrument of political coercion only and this may obscure any role they may have in challenging kleptocracy.

Moving towards truly addressing corruption through the imposition of sanctions in general and specifically in relation to individuals suspected of corruption under the 2022 Russian sanctions will require sanctioning jurisdictions to make a clear and robust link between sanctions and investigations, and being able to find evidence demonstrating the illegal origin of the wealth. It will also need sanctioning jurisdictions to devote the resources necessary to undertake and identify crimes that have both in the acquisition of the assets and in the introduction of the assets into their jurisdictions. Both steps can increase the likelihood of confiscation and potentially head off any future legal challenges, while addressing questions around the political legitimacy of the sanctions. It will also require taking steps to further identify and ensure that all assets relating to sanctioned individuals have been frozen by doing more to close the loopholes in investigative, oversight and monitoring systems.

References

Australian Government Department of Foreign Affairs and Trade. 2021. 'Serious Corruption Sanctions Regime'. Australian Government Department of Foreign Affairs and Trade. 2021. https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/serious-corruption-sanctions-regime.

———. 2022. 'Russia Sanctions Regime'. Australian Government Department of Foreign Affairs and Trade. 2022. https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/russia-sanctions-regime .

———. n.d. 'About Sanctions'. Australian Government Department of Foreign Affairs and Trade. Accessed 13 April 2022a. https://www.dfat.gov.au/international-relations/security/sanctions/about-sanctions.

———. n.d. 'Sanctions Permits'. Australian Government Department of Foreign Affairs and Trade. Accessed 13 April 2022b. https://www.dfat.gov.au/international-relations/security/sanctions/what-we-can-do-help/sanctions-permits.

———. n.d. 'What You Need to Know'. Australian Government Department of Foreign Affairs and Trade. Accessed 13 April 2022c. https://www.dfat.gov.au/international-relations/what-you-need-know-0.

Barr, Luke. 2022. 'DOJ Announces Task Force to Target Russian Oligarchs' Assets'. ABC News. 2 March 2022. https://abcnews.go.com/Politics/doj-announces-task-force-target-russian-oligarchs-assets/story?id=83204998.

Barr, Luke, Aaron Katersky, and Alexander Mallin. 2022. 'Russian Oligarch's Yacht Seized by DOJ's "KleptoCapture" Task Force'. ABC News. 5 April 2022. https://abcnews.go.com/US/russian-oligarchs-yacht-seized-dojs-kleptocapture-task-force/story?id=83868205.

Basel Institute on Governance. 2021. 'Managing Seized and Frozen Assets – What Are International Norms?' 27 September 2021. https://baselgovernance.org/blog/managing-seized-and-frozen-assets-what-are-international-norms.

BBC News. 2022. 'What Sanctions Are Being Imposed on Russia over Ukraine Invasion?', 6 April 2022, sec. Europe. https://www.bbc.com/news/world-europe-60125659.

Bolks, Sean M., and Dina Al-Sowayel. 2000. 'How Long Do Economic Sanctions Last? Examining the Sanctioning Process through Duration'. *Political Research Quarterly* 53 (2): 241–65. https://doi.org/10.1177/106591290005300202.

Borell, Josep. 2020. 'The Long and Complex Road towards an EU Global Human Rights Sanctions Regime | EEAS Website'. EEAS. 2020. https://www.eeas.europa.eu/eeas/long-and-complex-road-towards-eu-global-human-rights-sanctions-regime_en.

Brutelle, Alexandre. 2021. 'Egypt: Transparency International Wants to Reopen Case into Mubarak Assets'. The Africa Report.Com. 31 March 2021. https://www.theafricareport.com/76675/egypt-transparency-international-wants-to-reopen-case-into-mubarak-assets/.

Bundesministerium der Finanzen. 2022. 'Implementation of the Sanctions on Russia – Overview - Federal Ministry of Finance - Issues'. 2022. https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Topics/Europe/War-in-Ukraine/implementation-of-the-sanctions-on-russia.html.

Christopher Kerrigan, James Campbell, Cindy McNair, and Andrew Wilcock. 2022. 'Sanctions Regime in Australia'. 2022. https://www.allens.com.au/insights-news/insights/2020/09/sanctions-regime-in-australia/.

CiFAR. 2020a. 'Guidelines'. *SANCTIONS WATCH* (blog). 2020. https://sanctionswatch.cifar.eu/guidelines.

———. 2020b. ‘Yemen’s Stolen Assets: Past and Future’. *CiFAR* (blog). 2020. https://cifar.eu/projects-and-campaigns/research/yemen-assets/.

———. 2021. ‘EU Sanctions’. *SANCTIONS WATCH* (blog). 2021. https://sanctionswatch.cifar.eu/sanctions-regimes/eu-sanctions.

Cizmaziova, Lucia. 2021a. ‘Sanctions as a Tool for Asset Recovery: Global Report’. CiFAR.

———. 2021b. ‘The EU and UK Are Releasing the Money of Deposed Dictators’. OpenDemocracy. 25 May 2021. https://www.opendemocracy.net/en/north-africa-west-asia/eu-and-uk-are-releasing-money-deposed-dictators/.

De Nederlandsche Bank. 2022. ‘Sanctions Declared against Russia’. 2022. https://www.dnb.nl/en/sector-news/sanctions-declared-against-russia/.

Dornbierer, Andrew. 2021. ‘Guest Post: Illicit Enrichment Laws and the Presumption of Innocence’. *GAB | The Global Anticorruption Blog* (blog). 27 July 2021. https://globalanticorruptionblog.com/2021/07/27/guest-post-illicit-enrichment-laws-and-the-presumption-of-innocence/.

Early, Bryan R. 2016. ‘Confronting the Implementation and Enforcement Challenges Involved in Imposing Economic Sanctions’. In , 43–69. Leiden, The Netherlands: Brill | Nijhoff. https://doi.org/10.1163/9789004299894_004.

EU Council. 2021a. ‘Egypt: EU Revokes Sanctions Framework and Delists 9 People’. 2021. https://www.consilium.europa.eu/en/press/press-releases/2021/03/12/egypt-eu-revokes-sanctions-framework-and-delists-9-people/.

———. 2022b. ‘EU Restrictive Measures against Russia over Ukraine (since 2014)’. 2022. https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/.

European Council. 2018. ‘Guidelines on the Implementation and Evaluation of Restrictive Measures (Sanctions)’. 5664/18. Brussels: European Council.

———. 2021. ‘EU Global Human Rights Sanctions Regime - Annual Review of Annex’. 2021. https://www.consilium.europa.eu/en/press/press-releases/2021/12/06/eu-global-human-rights-sanctions-regime-annual-review-of-annex/.

———. 2022. ‘EU Sanctions against Russia over Ukraine (since 2014)’. 2022. https://www.consilium.europa.eu/en/infographics/eu-sanctions-against-russia-over-ukraine/.

Federal Department of Foreign Affairs (FDFA). n.d. ‘No Dirty Money: The Swiss Experience in Returning Stolen Assets’.

Foreign Affairs and International Development, Standing Committee. 2017. ‘Committee Report No. 7 - FAAE (42-1) - House of Commons of Canada’. 2017. https://www.ourcommons.ca/DocumentViewer/en/42-1/faae/report-7/page-90.

Global Affairs Canada. 2015a. ‘Canadian Sanctions Related to Ukraine’. GAC. 19 October 2015. https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/ukraine.aspx?lang=eng.

———. 2015b. ‘Canadian Sanctions Related to Ukraine’. GAC. 19 October 2015. https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/ukraine.aspx?lang=eng.

———. 2015c. ‘Justice for Victims of Corrupt Foreign Officials Act’. GAC. 19 October 2015. https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/victims_corrupt-victimes_corrompus.aspx?lang=eng.

———. 2018a. ‘Canadian Sanctions Related to Egypt’. GAC. 26 September 2018. https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/egypt-egypte.aspx?lang=eng.

———. 2018b. ‘Canadian Sanctions Related to Tunisia’. GAC. 26 September 2018. https://www.international.gc.ca/world-

monde/international_relations-relations_internationales/sanctions/tunisia-tunisie.aspx?lang=eng.

Government of Canada. n.d. 'Current Sanctions Imposed by Canada'. Accessed 13 April 2022. https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/current-actuelles.aspx?lang=eng.

Government of Switzerland. 2022. 'SR 946.231.176.72 - Verordnung Vom 27. August 2014 Über Massnahmen Im Zusammenhang Mit Der Situation in Der Ukraine'. 28 February 2022. https://www.fedlex.admin.ch/eli/cc/2014/486/de.

Hayes, Jack, Dave Stetson, Ed Krauland, Nicholas Turner, and Evan Abrams. 2022. 'What US Financial Institutions Need to Know about FinCEN's Russian Sanctions Evasion and Ransomware Guidance'. International Compliance Blog. 15 March 2022. https://www.steptoeinternationalcomplianceblog.com/2022/03/what-us-financial-institutions-need-to-know-about-fincens-russian-sanctions-evasion-and-ransomware-guidance/.

Justice Department (US). 2020. 'Justice Department Seeks Forfeiture of More than $20 Million in Assets Relating to Unlawful Use of U.S. Financial System to Evade and Violate Iranian Sanctions'. 3 June 2020. https://www.justice.gov/opa/pr/justice-department-seeks-forfeiture-more-20-million-assets-relating-unlawful-use-us-financial.

Lawants. 2020. 'What Is Asset Confiscation and Why Does It Matter So Much?' *Lawants* (blog). 29 December 2020. https://www.lawants.com/en/what-is-asset-confiscation-and-why-does-it-matter-so-much/.

LexisNexis. n.d. 'What Are Sanctions? - Glossary'. Accessed 7 April 2022. https://internationalsales.lexisnexis.com/glossary/compliance/sanctions.

Lowe, Rebecca. 2014. 'Sanctions: Guilty until Proven Innocent'. International Bar Association. 10 November 2014. https://www.ibanet.org/Sanctions-Guilty-until-proven-innocent.

Michaelsen, Christopher. 2022. 'What Are Sanctions, Do They Ever Work – and Could They Stop Russia's Invasion of Ukraine?' The Conversation. 27 February 2022. http://theconversation.com/what-are-sanctions-do-they-ever-work-and-could-they-stop-russias-invasion-of-ukraine-177926.

Mills, Claire. 2022. 'Sanctions against Russia: Research Briefing'. House of Commons Library.

Murray, Sarah, and Michael Stocks. 2021. 'Worldwide Freezing Orders'. Stevens & Bolton LLP. 29 July 2021. https://www.stevens-bolton.com/site/insights/briefing-notes/worldwide-freezing-orders.

Nizzero, Maria. 2022. 'From Freeze to Seize: Dealing with Oligarchs' Assets in the UK'. 2022. https://rusi.org/explore-our-research/publications/commentary/freeze-seize-dealing-oligarchs-assets-uk.

Office of Financial Sanctions Implementation. 2022. 'Monetary Penalities for Breaches of Financial Sanctions: Guidance'. HM Treasury.

Pavlidis, Georgios. 2021. 'Global Sanctions against Corruption and Asset Recovery: A European Approach'. *Journal of Money Laundering Control* ahead-of-print (ahead-of-print). https://doi.org/10.1108/JMLC-10-2021-0120.

Petterd, Anne. 2021. 'Australia Passes Magnitsky-Style Thematic Sanctions Laws'. Global Compliance News. 18 December 2021. https://www.globalcompliancenews.com/2021/12/18/australia-passes-magnitsky-style-thematic-sanctions-laws-03122021/.

Portela, Clara. 2019. 'Sanctioning Kleptocrats: An Assessment of EU Misappropriation Sanctions'. CiFAR.

Prusa, Vaclav. 2020. 'Sanctions as a Tool for Asset Recovery: Kenya'. CiFAR.

Rozenberg, Joshua. 2022. 'The Cost of Sanctions'. Substack newsletter. *A Lawyer Writes*

(blog). 7 April 2022. https://rozenberg.substack.com/p/the-cost-of-sanctions.

Ruck, Michael E., and Rosie Naylor. 2022. 'The Economic Crime (Transparency and Enforcement) Act 2022 - Impact on UK Sanctions Regime'. Lexology. 8 April 2022. https://www.lexology.com/library/detail.aspx?g=74591374-c5a6-44d0-949f-832238b4da0f.

Shah, Jill R., Scott Carpenter, and Blake Schmidt. 2022. 'Seizing Superyachts of Russia's Elite Is Harder Than It Sounds'. *Bloomberg.Com*, 3 March 2022. https://www.bloomberg.com/news/articles/2022-03-03/seizing-assets-of-russia-s-elite-is-far-trickier-than-sanctions.

Simmons, Simmons-Alexandra Webster, and Cherie Spinks. 2021. 'Snapshot: Economic and Financial Sanctions in United Kingdom'. Lexology. 4 May 2021. https://www.lexology.com/library/detail.aspx?g=59b1ad6c-e667-477c-ae1e-5da229897c1c.

Solicitors Regulation Authority. 2022. 'Russian Conflict and Sanctions'. 3 April 2022. https://www.sra.org.uk/sra/news/russian-conflict-and-sanctions/.

Tax Justice Network. 2022. '10 Measures to Expose Sanctioned Russian Oligarchs' Hidden Assets'. Tax Justice Network.

Transparency International. 2022. 'Countering Russia's Kleptocrats: What the West's Response to The…'. Transparency.Org. 4 March 2022. https://www.transparency.org/en/news/countering-russian-kleptocrats-wests-response-to-assault-on-ukraine.

UK Government. 2002. 'Proceeds of Crime Act 2002'. Text. Statute Law Database. 2002. https://www.legislation.gov.uk/ukpga/2002/29/section/41.

———. 2022. 'Licences That Allow Activity Prohibited by Financial Sanctions'. GOV.UK. 2022. https://www.gov.uk/guidance/licences-that-allow-activity-prohibited-by-financial-sanctions.

———. n.d. 'Global Anti-Corruption Sanctions: Consideration of Designations'. GOV.UK. Accessed 7 April 2022a. https://www.gov.uk/government/publications/global-anti-corruption-sanctions-factors-in-designating-people-involved-in-serious-corruption/global-anti-corruption-sanctions-consideration-of-designations.

———. n.d. 'Proceeds of Crime Act 2002'. Text. Statute Law Database. Accessed 7 April 2022b. https://www.legislation.gov.uk/ukpga/2002/29/section/40.

———. n.d. 'UK Sanctions Regimes'. GOV.UK. Accessed 7 April 2022c. https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act.

———. n.d. 'UK Sanctions Relating to Global Anti-Corruption'. GOV.UK. Accessed 7 April 2022d. https://www.gov.uk/government/collections/uk-sanctions-relating-to-global-anti-corruption.

———. n.d. 'UK Sanctions Relating to Global Human Rights'. GOV.UK. Accessed 7 April 2022e. https://www.gov.uk/government/collections/uk-global-human-rights-sanctions.

———. n.d. 'UK Sanctions Relating to Russia'. GOV.UK. Accessed 3 May 2022f. https://www.gov.uk/government/collections/uk-sanctions-on-russia.

United Nations Security Council. n.d. 'Sanctions'. Accessed 7 April 2022a. https://www.un.org/securitycouncil/sanctions/information.

———. n.d. 'Work and Mandate'. Accessed 19 April 2022b. https://www.un.org/securitycouncil/sanctions/2140/panel-of-experts/work-and-mandate.

U.S. Department of Justice. 2022. 'Attorney General Merrick B. Garland Announces Launch of Task Force KleptoCapture'. 2 March 2022. https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-launch-task-force-kleptocapture.

U.S. Department of the Treasury. 2002. '20: How Often Is the Specially Designated Nationals (SDN) List Updated?' U.S. Department of the Treasury. 2002. https://home.treasury.gov/policy-issues/financial-sanctions/faqs/20.

———. 2022a. 'Civil Penalties and Enforcement Information'. 2022. https://home.treasury.gov/policy-issues/financial-sanctions/civil-penalties-and-enforcement-information.

———. 2022b. 'Counter Terrorism Sanctions'. 2022. https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/counter-terrorism-sanctions.

US Department of the Treasury. 2022. 'Iran Sanctions'. U.S. Department of the Treasury. 2022. https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/iran-sanctions.

U.S. Department of the Treasury. 2022c. 'Ukraine-/Russia-Related Sanctions'. U.S. Department of the Treasury. 2022. https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions.

———. n.d. 'OFAC Licenses'. U.S. Department of the Treasury. Accessed 13 April 2022a. https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1506.

———. n.d. 'Office of Foreign Assets Control - Sanctions Programs and Information'. U.S. Department of the Treasury. Accessed 13 April 2022b. https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information.

White & Case. 2022. 'Switzerland's Sanctions Related to the Situation in Ukraine | White & Case LLP'. 2022. https://www.whitecase.com/publications/alert/switzerlands-sanctions-related-situation-ukraine.

Willn, James, and Finlay Donaldson. 2020. 'US Sanctions - Who Do They Apply to and What Steps Can You Take?' Lexology. 25 November 2020. https://www.lexology.com/library/detail.aspx?g=e12a36c8-158e-402a-b205-5cccf41bc964.

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