

# RuAssetsWatch

## MONITORING INITIATIVES TO CONFISCATE RUSSIAN ASSETS FOR THE RECOVERY OF UKRAINE

April 2023

*In this issue:*

- **Ukraine calls on its allies, primarily the United States, to take the lead in creating a special compensation mechanism and adopting appropriate legislation that would allow for the confiscation of frozen private and sovereign Russian assets.**
- **Russia is blackmailing Ukraine’s allies by seizing the assets of Western companies in its territory – Putin issued a decree on the “temporary” management of the property owned by residents of the countries that Russia calls “unfriendly”. The first “victims” were the Russian assets of Uniper S.A. and Fortum.**
- **The EU and G7 are still discussing the expansion of economic sanctions on Russia. The strengthening of sanctions should include additional measures to reduce Russia’s export revenues, tightening restrictions on exports to Russia and broader sanctions against Russian companies.**
- **The International Working Group on Russian Sanctions (‘Yermak-McFaul Group’) presented a new document where experts focused on specific areas of increasing sanctions pressure. In particular, this includes further introduction of sanctions on the Russian energy sector and the defence industry, restrictions on the use of financial instruments and confiscation of assets of the Russian Central Bank and their transfer to Ukraine.**

- The U.S. has imposed sanctions against more than 120 legal entities and individuals in more than 20 countries and jurisdictions aimed at closing alternative ways of Russia financing its war machine. In coordination with the UK, the U.S. targeted the sanctions evasion network that supports Alisher Usmanov, one of Russia’s richest billionaires.
- At the EU level, the European Parliament plans to adopt acts that, *inter alia*, provide for new due diligence rules for checking the identity of customers, what they own and their controllers. It also envisages the establishment of the EU-wide Anti-Money Laundering Authority (AMLA) with supervisory and investigative powers.
- The U.S. Department of Justice is looking for new ways to stop evasion of sanctions by Russia, targeting foreign investment advisers, hedge funds, law firms and private equity managers. Andrew Adams, Director of the U.S. Department of Justice KleptoCapture Task Force, explained how they searched for Russian sanctioned assets.
- The G7 ambassadors called on the Swiss Federal Council to conduct an in-depth search for the funds of Russian oligarchs and to participate in the international Russian Elites, Proxies, and Oligarchs (REPO) Task Force.
- The Bank of Cyprus closed 10,000 Russian bank accounts after the U.S. and UK had imposed sanctions on Cypriot lawyers and accountants for helping oligarchs, including Roman Abramovich, and is setting up a national sanctions enforcement unit to work with the relevant UK department.
- The Ministry of Justice of Ukraine cancelled the registration actions regarding the changes in the final beneficial owners of Smart Holding, Ukgazvydobutok and Regal Petroleum Corporation (Ukraine) Limited of Vadym Novynskyi. In turn, the Prosecutor General’s Office seized the corporate rights of 40 companies, 30 gas wells and real estate for a total cost of over 3.5 billion UAH.

*The material was prepared with the support of the International Renaissance Foundation within the framework of the project “Advocacy for the Green Recovery of Ukraine through Increased Support for Ukraine and Weakening of Russian Influence in the EU”. The material reflects the position of the authors and does not necessarily reflect the position of the International Renaissance Foundation.*

## 1. Ukraine calls on allies, primarily the United States, to take the lead in confiscating frozen Russian assets

### *Description of the situation*

More than a year has passed since the beginning of the large-scale armed Russian aggression, and Russian money is still not working for the restoration of Ukraine. In one of his addresses, the President Volodymyr Zelenskyi [noted](#): “...the world knows the solution – regarding the assets of Russia, Russian officials, oligarchs who got rich while their state was becoming a terrorist... All these assets should be used to compensate for the losses of those to whom Russia brought pain and suffering. Russian assets must go to recovery after aggression. The war should be the most costly for the aggressor exactly. And we do everything for this. I am grateful to the partners who support us.”

In turn, during a [speech](#) at the [U.S.-Ukraine Partnership Forum](#) held on April 13 in Kyiv, the Prime Minister of Ukraine Denys Shmyhal said: “Ukraine offers four main sources of funding for the Recovery Plan: confiscated Russian funds in Ukraine and around the world, funds from international partners, including international financial institutions, direct funds from the state budget of Ukraine, as well as funds from donors and the private sector. It is very important that the confiscated Russian sovereign funds become the main resource for reconstruction.”

The Prime Minister also recalled Ukraine’s proposals to create a special compensation mechanism and adopt relevant national legislation that would allow the confiscation of frozen private and sovereign Russian assets, and also expressed hope for U.S. leadership in this regard.

At the same time, Victoria Nuland, Under Secretary for Political Affairs, [noted](#) at this Forum that “among other things, we are working to ensure that Russia helps pay for all that it has broken.” She also noted that currently “discussions are ongoing about the estimated \$300 billion of Russian Central Bank assets that we and our allies have frozen.”

### *Analysis*

The Ukrainian political leadership calls on allies to overcome obstacles and still find legal mechanisms to confiscate the assets of the Russian Central Bank, whose frozen assets can become the basis for the reconstruction of Ukraine.

And the USA is seen as the leader in this process. After all, today only the USA and Canada among Ukraine’s allies adopted the mechanism for confiscating Russian private assets for the benefit of Ukraine. And therefore they can be leaders in the process of finding mechanisms for the confiscation of sovereign assets of the Russian Federation.

Despite the fact that on February 16, 2023, the European Parliament adopted a [Resolution on one year of Russia’s invasion and war of aggression against Ukraine](#), in which it called on the European Commission and co-legislators to complete the legal regime allowing for the confiscation of Russian assets frozen by the EU and for their use to address the various consequences of Russia’s aggression against Ukraine, European Commission lawyers concluded that the frozen assets of the Central Bank of Russia (CBR) should be returned to Russia after the end of the war in Ukraine.

[IntelliNews](#) writes about this with reference to [Die Welt’s](#) material on the unpublished report of the legal service of the EC, which concluded that the assets of the CBR could not be legally seized and transferred to Ukraine due to significant legal obstacles.

Despite the fact that the EU has the power to freeze assets, thanks to strict European property rights laws, ownership of assets remains with their original owner. Ownership of frozen assets can only be transferred to someone else if there is a guilty verdict in a criminal case involving the assets.

Although there is considerable support for confiscating frozen Russian assets for the reconstruction of Ukraine, the legal argument is that this would undermine European property rights.

As an alternative way of using the funds, the European Commission proposed to invest the frozen assets of the CBR in European government bonds and use the received interest to make payments to Kyiv.

However, this plan also contains risks. After all, if the investment loses money, then who will be responsible for the losses? It is politically very unattractive to force European taxpayers to cover the losses and then return the total amount to Russia. The legal service of the EU has not yet found an answer to the question of what to do if the funds in the case of such investments are lost.

The legal team of the EC also raised the issue of how much CBR funds were actually frozen. The figure of 300 billion USD is based on the CBR own reports of how much it keeps in Europe. The CBR accounts are confusing, and the EC team [managed to identify only about 38 billion USD](#), while the remaining 220 billion USD of reserves in Europe (the rest are in the U.S. and other countries) cannot be identified. In addition, only 22 billion USD of funds of sanctioned oligarchs were found, while, according to [Forbes](#) estimates, the assets of the 86 largest Russian billionaires are worth 500-600 billion USD.

At the same time, the CBR may consider a proposal that provides for settlements with international companies that leave the Russian market with special bonds pegged to Russian reserves frozen by Western countries. [Business Censor](#) writes about this with reference to RBC (Russian media).

This message coincided with a blackmail campaign against Western assets in the Russian Federation. According to [Bloomberg](#), Russia's president Vladimir Putin signed a decree on the introduction of "temporary" property management of residents of the countries that Russia calls "unfriendly", in the event that Russia or Russian individuals or legal entities are deprived of property in these countries.

According to this decree, the Russian Federation can introduce "temporary" management even in the case of only the threat of deprivation or limitation of Russians' ownership or property rights. The Federal Agency for State Property Management is appointed as the temporary manager of such property, but the president has the right to appoint another entity. Expenses related to the temporary management of the property must be compensated from the income of using this property. The temporary management is terminated by the decision of Putin.

The first "victims" of Putin's decree were 83.73% of the energy company Unipro, which is owned by Uniper SA, Germany, as well as 98% of the energy generating company Fortum, which is owned by Dutch subsidiaries of the Finnish energy holding Fortum. Both companies tried to sell their shares after the Russian invasion of Ukraine but were blocked by the Kremlin, which prohibited foreign investors from selling Russian assets without special permission and demanded a large discount.

Russian assets of Fortum and Uniper include 12 coal-fired and gas-fired thermal power plants with a capacity of 16 GW, and Fortum also owns 29.45% in TGC-1 (operator of thermal power plants and hydroelectric power plants in the north-west of Russia, controlled by Gazprom Energy Holding) as well as wind and solar generation facilities.

Elina Rybakova, Senior Researcher at the [Peterson Institute for International Economics](#), commented on this situation: *“Many companies that did not receive or did not take advantage of the opportunity to leave earlier should now be afraid because this is a clear scheme of further tightening of regulation, and it will be increasingly difficult to leave Russia. The key objective is to take hostages, and that was clear from the beginning.”*

That is, the behavior of the terrorist country was predictable. How Western leaders will react to this situation – whether by introducing even tougher restrictions on the Russian Federation or whether they will still find legal mechanisms to confiscate the frozen assets of the aggressor – is an open question.

At the same time, there are already precedents for the confiscation of sovereign state assets. It is about the assets of the Central Bank of Iran (in the amount of 1.75 billion USD) and a number of Iranian companies, which the Supreme Court of the United States decided to freeze and confiscate in order to pay compensation to 241 victims of the explosion of a military base with American peacemakers in Lebanon in 1983, for which the U.S. put responsibility on Iran (learn more about the case [here](#)).

## 2. Extending sanctions is on the agenda of Ukraine's partner countries

### *Description of the situation*

Despite the introduction of unprecedented restrictive measures, according to the [forecast](#) of the International Monetary Fund, the Russian economy will grow by 0.3% this year, which is significantly “better” compared to the previous estimate, according to which it should have decreased by 2.3%. Therefore, **Ukraine's allies are now concentrating their efforts to significantly expand economic sanctions on Russia**. This may include additional measures to reduce Russia's export revenues; tightening restrictions on exports to Russia, in particular high technologies; broader sanctions against Russian companies.

According to [Bloomberg](#), ahead of the G7 leaders' meeting in Japan, some of Ukraine's key allies, including the United States, are considering moving closer to an explicit ban on most exports to Russia, potentially adding to economic pressure. This approach will overturn key approaches to the sanctions regime, because now all exports to the Russian Federation are allowed, except for sanctioned goods. However, there are potentially serious obstacles to the implementation of such a plan, mainly in the EU, where new criteria must be adopted by all member states.

[U.S. Secretary of State Antony Blinken's statement](#) on the introduction of new sanctions against more than 120 legal entities and individuals in more than 20 countries and jurisdictions may indicate increased pressure. In particular, he noted that more than a year after Russia's unprovoked invasion of Ukraine, the consequences of globally coordinated sanctions forced the Russian Federation to look for alternative ways of financing and fueling its war machine. The United States, in coordination with the UK, is targeting the sanctions evasion network that supports one of Russia's richest billionaires, Alisher Usmanov, who was targeted by U.S. sanctions last year (*read more about the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) investigation [here](#)*).

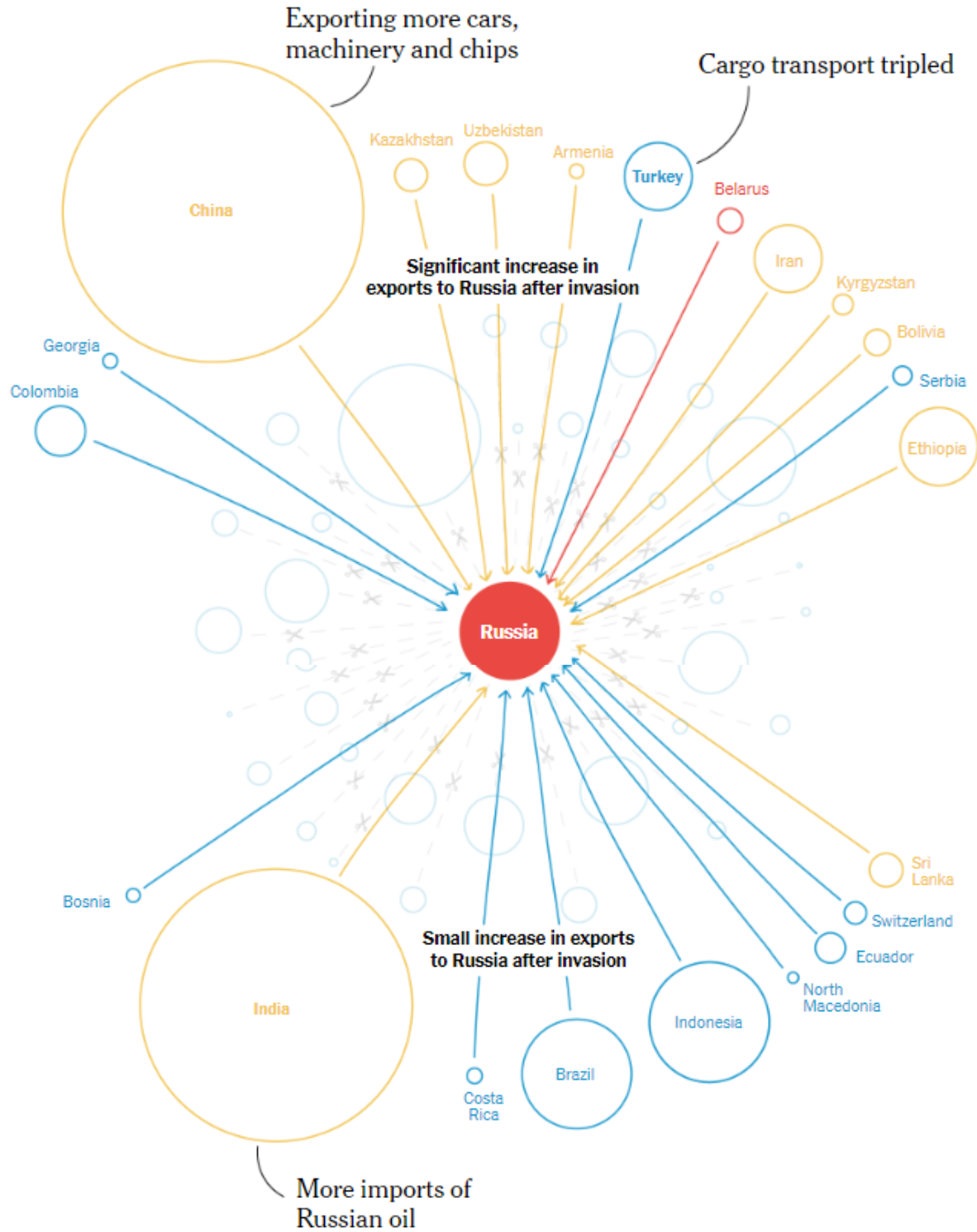
Sanctions are also imposed on other persons associated with the Russian state corporation Rosatom. Russia uses energy exports, including services in the nuclear sector, to exert political and economic pressure around the world. In turn, the United Kingdom, the United States, Canada, Japan and France [formed](#) an alliance aimed at ousting Russia from the international nuclear energy market. Agreements were reached in April on the sidelines of the G7 meeting in Japan. In particular, the five countries agreed that they would use the respective resources and capabilities of each country's civilian nuclear energy sectors to undermine Russia's control over supply chains.

### *Analysis*

Journalists of *The New York Times* [analyzed](#) various aspects of international pressure on the aggressor, including through sanctions. They mention that a large number of countries consider the Russian invasion as, first of all, a European and American problem, so they are largely focused on protecting their own interests amid the economic and geopolitical upheavals caused by the Russian invasion.

Despite the fact that the sanctions have blocked Russian imports of key goods such as aircraft parts and semiconductors for electronics, and hundreds of companies have voluntarily stopped doing business in Russia, they have not been as disruptive. Individual countries filled the gaps, increasing exports to Russia significantly above the pre-war level.

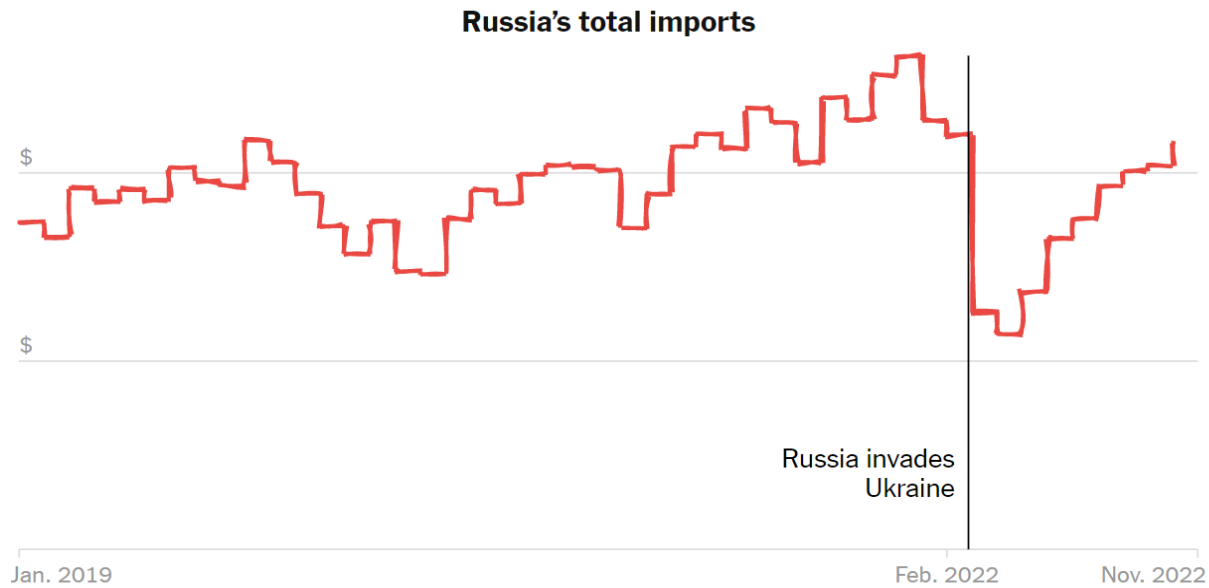
○ Supported condemning Russia   ○ Abstained or absent from the U.N. vote   ○ Against condemning Russia



Source: Analysis of trade data from Silverado Policy Accelerator, using data from Global Trade Tracker; U.N. Comtrade; CEIC Data; national statistics databases. \* Note: A significant increase includes countries with exports to Russia at least 25 percent higher between Aug. to Nov. 2022 than their averages before the invasion, between Jan. 2019 and Jan. 2022. Other countries had increases of less than 25 percent.

Source: [The New York Times](#)

Moreover, after an initial drop immediately after the invasion, the level of trade has recovered as enough countries in the world remain willing to trade with Russia.



Source: Silverado Policy Accelerator • Note: Includes data for 98 countries, which account for the vast majority of pre-invasion exports to Russia.

Source: [The New York Times](#)

At the same time, as journalists note, sanctions can still be devastating for Russia in the long run. They are already inhibiting foreign investment and beginning to deplete the treasury. Restrictions on oil trade have forced Russia to cut production, and reorientation of gas pipeline infrastructure to Asian markets will take years.

As [The Guardian](#) writes with reference to the analysis of the Centre for Economic Policy Research (CEPR), the recession in Russia last year was wider and deeper than official data showed. In particular, private consumption dropped by 4%, rather than the 1.8% in official figures, although a final assessment of all aspects of military spending is not possible.

Even official figures provide clues to the damage done to the non-war sectors of economy. The total Russia's imports of goods in December 2022 decreased by approximately 20% year-on-year, while imports of technology dropped by 30%. Last year, the production of cars decreased by 67%, excavators – by 53% and televisions – by 36%. Not only are Russian expenditures rising and government revenues falling rapidly, Russian workers have low average incomes, pay very little tax and are few in number compared to retirees. This dynamic is reflected in the World Bank's data on per capita income – a total of 12,200 USD in 2021.

In general, analysts assume that a combination of factors such as falling oil revenues, the fall of the Russian ruble, restrictions on borrowing from foreign banks and public fears will create a financial deficit this year, which the Russian Federation will find difficult to solve.

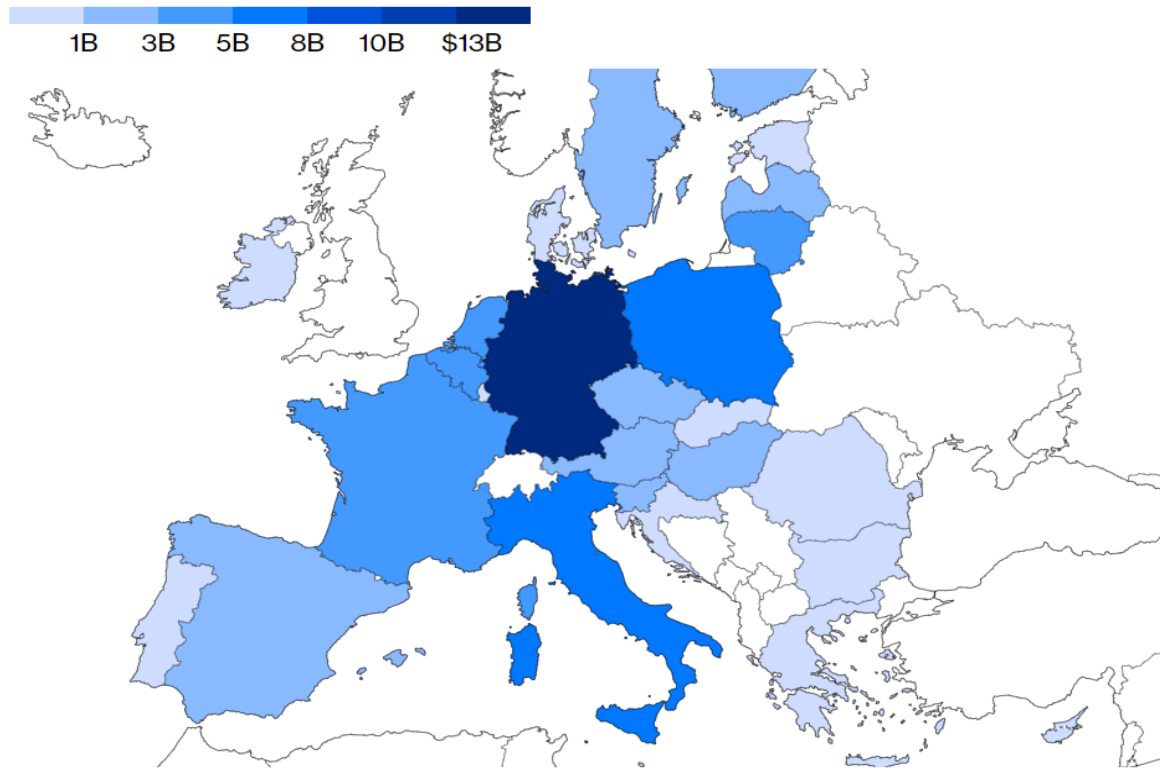
At the same time, even if [G7 leaders do agree on a total ban on exports](#) at their summit in May, they will also have to agree on certain exceptions (medicines, agricultural products, including food).



So far, the sanctions have almost halved EU and G7 exports to Russia. However, the volume of exports of goods from Europe, the United States, Canada and Japan still reaches 66 billion USD, according to the Trade Data Monitor. Germany, Italy and Poland remain the top three European exporters. Such goods as cars, chocolate, beer, shoes, flowers and cosmetics can be most affected by a total embargo by the G7 countries.

## Russian Trade Exposure

European nations are still exporting goods worth billions to Russia



Source: Trade Data Monitor  
2022 merchandise goods exports

Even with existing restrictions, Russia managed to import some sanctioned American and European components through third countries. This requires increased attention combating sanctions evasion, especially the strengthening of monitoring of so-called dual-use goods, which can serve both military and civilian purposes.

At the same time, the International Working Group on Russian Sanctions (‘Yermak-McFaul Group’) presented on April 24 a new document [“Action Plan 2.0 “Strengthening Sanctions against the Russian Federation”](#). As noted by Head of the Presidential Office Andrii Yermak: *“We are waiting for the new powerful sanctions packages provided for in this plan. This is an extremely important document...”*. In addition, he emphasized that the new plan should be communicated as soon as possible to world leaders and relevant organizations that deal with the imposition of sanctions.

As the authors of the document note, it outlines a “roadmap” for the development of sanctions policy and new actions in 2023. The document proposes such measures as strengthening sanctions on oil and energy, sanctions on non-energy trade, military sanctions, technological and financial sanctions. The document also provides recommendations on

strengthening individual sanctions, recognizing Russia as a state sponsor of terrorism, strengthening information disclosure requirements, supporting business withdrawal from Russia, strengthening enforcement and expanding the sanctions coalition.

Regarding the **confiscation of Russian assets**, experts of 'Yermak-McFaul Group' offer:

- Determine the beneficial owners. Where this has not been done, national legislation should be adopted to enable effective identification of Russian assets;
- Clarify national legal powers to seize Russian sovereign assets. Each of the countries that have imposed sanctions has different legal powers to dispose of frozen assets as well as different constitutional and sovereign immunities to protect sovereign assets. We call on each of the countries that have imposed sanctions to enact or refine comprehensive legislation, if it does not already exist, to provide the following legal powers. First, national legislation in each country must identify and authorize a competent national authority to initiate the confiscation or transfer of Russian sovereign assets. Second, national legislation should provide for the possibility of canceling any protection of sovereign immunity in exceptional circumstances, such as clear violations of international law by Russia. Finally, each country must ensure that any confiscation process is structured in accordance with due process of law and any national constitutional guarantees that may apply;
- Enact legislation that will provide a legal basis for the confiscation of private assets.

Time will tell whether the proposals of the International Working Group will be taken into account, but a number of investigations show that Russia uses various loopholes to evade sanctions and finance its war machine to continue the war.

**Therefore, Ukraine's allies are increasing sanctions pressure on the aggressor country and are looking for effective ways to deprive Russia of opportunities to finance the war. At the same time, the question of unity remains open on key issues, as how to achieve such measures without harming one's own business and economies.**

### 3. The U.S. and the EU have launched a “hunt” for mediators who help Russia to circumvent sanctions

#### *Description of the situation*

On March 28, as part of the second Summit for Democracy in Washington, the U.S. Secretary of the Treasury Janet Yellen [announced](#) the beginning of the implementation of the commitments by the United States and more than thirty foreign governments to increase the transparency of beneficial ownership. These commitments are in line with the revised standard of the Financial Action Task Force (FATF), which requires countries to increase the transparency of legal entities such as shell companies and prevent their abuse.

In her speech, the U.S. Secretary of Treasury admitted that over the past year, the **efforts of the U.S. and partners to track sanctioned Russian assets** and limit the access of sanctioned Russians to the international financial system **had not been effective enough**.

This struggle did not start yesterday. The Corporate Transparency Act (CTA) was passed by the U.S. Congress in 2021 and provides for the creation of a database of beneficial owners of companies. Since then, the U.S. Department of the Treasury has worked to create key infrastructure to strengthen its financial system. It is expected that starting next year, many companies established in the United States will be required to provide information about their ultimate beneficial owners.

Other countries that agreed to comply included Costa Rica, Malta, Luxembourg and Liechtenstein, which are known for their attraction to non-transparent financial services, although they are not classic tax heavens. However, they also committed to update the legal framework in order to ensure effective access to beneficial ownership information by law enforcement and other competent authorities.

There are already the first results of the [compliance program for business](#) introduced by the United States, which identifies markers (“red flags”) how to prevent violations of sanctions. According to the [press release](#) of the U.S. Department of the Treasury, as part of coordinated enforcement efforts, the Bureau of Industry and Security of the U.S. Department of Commerce (BIS) and the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) imposed a 3.3 million USD penalty on Microsoft Corporation for alleged and apparent violations of U.S. export control and sanctions acts. Microsoft voluntarily self-disclosed the violations to both BIS and OFAC, cooperated with the joint investigation conducted by the Office of Export Enforcement of BIS and OFAC and took corrective action.

Moreover, during the 2023 [Spring Meetings](#) of the World Bank Group and the International Monetary Fund, the U.S. Deputy Secretary of the Treasury Wally Adeyemo, the European Commissioner for Financial Services, Financial Stability and Capital Markets Mairead McGuinness and the HM Treasury Director General for International Finance Lindsey Whyte met with representatives of financial institutions to discuss further efforts to counter sanctions evasion and combat Russian military procurement in key jurisdictions. Government officials and bank representatives were also joined by the CIA Deputy Director David Cohen and the Deputy Director of National Intelligence Morgan Muir.

Officials shared information about the most critical goods sought by the Russian military and stressed that the Kremlin had instructed its intelligence agencies to find ways to circumvent sanctions to replenish badly depleted supplies.

Following in the footsteps of the United States, the European Union begins to [reform its legislation](#) related to combating money laundering and terrorist financing. The European Parliament plans to adopt bills which, *inter alia*, provide for [new due diligence rules for checking the identity of customers, their property and their controllers](#). It also envisages the establishment of the EU-wide Anti-Money Laundering Authority (AMLA) with supervisory and investigative powers.

These measures will allow early detection of money laundering schemes and freeze assets as well as prevent evasion of EU sanctions. National financial intelligence units and other competent authorities will have access to information on beneficial ownership, bank accounts, land or real estate registries. MEPs also want EU member states to collect ownership information about goods such as yachts, aircrafts and cars worth more than 200,000 EUR, or goods stored in free zones<sup>1</sup>.

Moreover, different types of intermediaries, such as banks, asset and crypto-asset managers, real estate agents and professional football clubs will be required to verify the identity of their customers, and they will also be required to establish detailed types of money laundering and terrorist financing risks in their sphere of activities and transfer relevant information to the central register.

### *Analysis*

The U.S. Department of Justice is looking for new ways to stop Russian sanctions evasion, targeting foreign investment advisers, hedge funds, law firms and private equity managers. Andrew Adams, Director, U.S. Department of Justice KleptoCapture Task Force said this in an interview with [Bloomberg](#). In particular, he unveiled the areas of work of this task force.

The main theses of the interview:

- investigators are also looking closely at how cryptocurrency can be used to camouflage transactions for restricted goods or funnel retail-level payments to oligarchs, sanctioned companies or Russian militias;
- in their work investigators use different methods of obtaining information, including relying on whistle-blowers and search warrants and covert activity;
- after much activity to lock down Russian-owned yachts and planes before they were moved to more oligarch-friendly jurisdictions, the Task Force is now focused on geographical locations or technologies where violations are harder to root out.

Andrew Adams told that the U.S. and UK had announced sanctions against key advisers of Russian billionaires Roman Abramovich and Alisher Usmanov, alleging they helped the oligarchs disguise their assets to avoid penalties tied to the invasion of Ukraine (find out more [here](#)). Moreover, Cyprus citizens Demetris Ioannides and Christodoulos Vassiliades, a lawyer, are accused of helping the billionaires transfer their wealth to relatives or trusts and out of reach of sanctions enforcers.

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<sup>1</sup> [“Free zones”](#) are enclosed areas within the customs territory of the European Union where non-EU goods can be introduced free of import duty, other charges (i.e. taxes) and commercial policy measures

The cases have increased the focus on professional henchmen, many of whom are based in tax heavens but help Russian oligarchs evade U.S. sanctions and gain access to assets that are or should be frozen.

*“There are jurisdictions that cater to sanctioned oligarchs and make their financial systems available and sometimes do that in ways that make it impossible for us to really investigate,” Adams said. “Or they may facilitate US-dollar transactions through layers of shell companies in ways that make it impossible to pin an ultimate beneficial owner on a particular sanctioned person.”*

**One of the “fresh” cases, the investigation of which was coordinated through KleptoCapture**

The U.S. Department of Justice has [announced the indictment and arrest](#) of John Can Unsalan, aka Hurrem Can Unsalan, the president of Metalhouse LLC, for engaging in a three-year scheme to violate U.S. sanctions against oligarch Sergey Kurchenko and two of Kurchenko’s companies by providing those sanctioned parties with over 150 million USD in return for steelmaking materials.

According to the indictment, between July 2018 and October 2021, Unsalan from Orlando, Florida, acting through his company Metalhouse transferred over 150 million USD to Kurchenko and companies controlled by Kurchenko. In return, Unsalan received from Kurchenko metal products used in steelmaking and attempted to collect from Kurchenko millions of dollars for undelivered products.

*“The arrest of John Can Unsalan should serve as a warning to those who seek to do business with sanctioned individuals or entities that endanger the security of the United States and our allies,” said Attorney General Merrick B. Garland. “The Justice Department is relentlessly pursuing those whose seek to evade sanctions imposed against the Russian regime and whose crimes enable the regime to continue its unjust, illegal war in Ukraine.”*

Ukraine’s allies appear to be taking steps to find and punish the custodians of Russian criminal funds. And their eyes are now on Cyprus and Switzerland. The first results did not take long – Cyprus closes 10,000 Russian bank accounts, as the U.S. and UK imposed sanctions against the above-mentioned Cypriot lawyers and accountants.

As [The Guardian](#) reports, as rumors swirled of yet more Cypriots and Cyprus-based companies being added to sanctions lists drawn up by London and Washington to further penalize Russia for its war in Ukraine, the island’s largest lender, the Bank of Cyprus, confirmed that about 10,000 accounts belonging to 4,000 Russian depositors would be shut down.

Following this, statements began to appear that [Cyprus will not hide sanctions evaders](#) and [a national sanctions implementation unit will be set up](#), which will cooperate with the relevant department in the UK.

Moreover, the Governor of the Central Bank Constantinos Herodotou stated that Cypriot authorities had closed not only 123,000 suspicious bank accounts but also about 43,000 shell companies.

In recent years, Cyprus has sought to distance itself from dependence on Russian money under pressure from American regulators, who intend not only to minimize Russian investments but also the country’s influence in the region. Russian-owned bank accounts have shrunk

dramatically, with only 2.2%<sup>2</sup> of all bank deposits are held by Russians, a far cry from the tens of billions held in Cypriot bank accounts before the 2013 financial crisis.

Another favorite place for storing criminal assets is Switzerland. According to the local [Handelszeitung](#), the ambassadors of France, Italy, Germany, the U.S., Canada, Japan and the UK (G7) jointly called on the Swiss Federal Council to conduct an in-depth search for the money of Russian oligarchs and to participate in the international Russian Elites, Proxies, and Oligarchs (REPO) Task Force to impose financial sanctions against Putin's network.

In particular, the G7 ambassadors question the fact that Switzerland has frozen around 7.5 billion CHF (7.6 billion EUR) of Russian assets in 2022, while "according to the estimates from independent sources, the total amount held in Switzerland could be much larger". Moreover, the ambassadors also question Swiss bank secrecy regulations, which they say "could be used to cover the tracks of financial havens" as well as to protect the legal rights of private clients. In turn, as the same publication [writes](#), the Federal Council does not rule out participation in the work of REPO.

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<sup>2</sup> Of course, it is unlikely that the assets of the Russian oligarchs returned to the Russian Federation. Most likely, they "moved" to more loyal jurisdictions.

## 4. Law enforcement of the legislation on sanctions in Ukraine revealed a number of gaps that need to be addressed

### *Description of the situation*

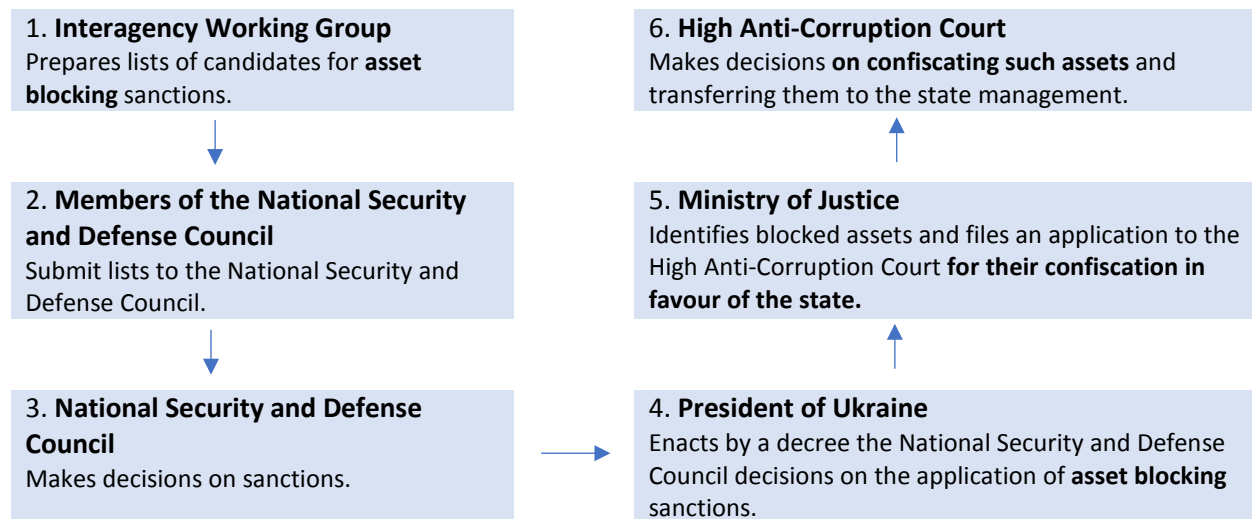
Prosecutor General of Ukraine Andrii Kostin [met](#) in the U.S. with Andrew Adams, Director of the U.S. Department of Justice KleptoCapture Task Force. The parties discussed the list of priority tasks for further cooperation.

Task Force Ukraine is currently working on the basis of the Prosecutor General's Office. Ukrainian and American groups stay in communication and work together on the issue of confiscation of Russian criminal assets. That is, Ukrainian investigators cooperate with American investigators in the search and confiscation of sanctioned persons' assets, and such experience is positive for achieving the ultimate goal, which is confiscation of Russian assets for the reconstruction of Ukraine.

At the same time, the process of civil confiscation is gaining momentum (*how it works – see the diagram*). In particular, the Ministry of Justice recently filed a lawsuit to the High Anti-Corruption Court regarding the [confiscation of the property of Volodymyr Saldo](#) in favor of the state. It is about confiscation to the state income of both the property of Saldo himself as well as persons close to him and persons who nominally own assets in the interests of Saldo.

Moreover, the Ministry of Justice filed a lawsuit against [Moscow Exchange MICEX-RTS PJSC](#) to the High Anti-Corruption Court for the application of the sanction provided for in subparagraph 11 of paragraph one of Article 4 of the Law on Sanctions. The exchange owns the shares of Settlement Center for Servicing Contracts on Financial Markets PJSC. On 19 April 2023, the High Anti-Corruption Court satisfied the lawsuit of the Ministry of Justice. After the decision enters into force, 1.44% of shares owned by PJSC, the total nominal value of which is UAH 2,978,000, will be confiscated in favor of the state.

### Mechanism of confiscating assets in favor of the state by imposing sanctions



Source: Based on [Facebook of Denys Maslov, Chairman of the Verkhovna Rada Committee on Legal Policy](#)

## *Analysis*

Today, there are different positions on law enforcement, since the practical use of the legislation in the framework of both civil and criminal confiscation of Russian assets has exposed a number of problems.

Experts outlined a number of problems that need to be addressed, in particular:

- seizure of intellectual property rights or corporate rights – it is applied in proceedings as physical evidence (the legislation defines that physical evidence is material objects);
- assets are seized without property owners (deprived of the right to protection);
- in the process of transferring the property to the Asset Recovery and Management Agency (ARMA), the property must be under seizure and its value must be preserved, but the seizure involves the imposition of a ban on alienation, use and disposal. At the same time, in the case of large assets, a seizure and a ban on alienation are imposed, and the property is transferred to ARMA – the owner loses the right to manage the property (note: the legislation does not directly prohibit the owner of the seized property from participating in the competition for the property manager, if it is not prescribed in the conditions of the competition);
- seizure of property is used before sanctions are applied;
- application of the Law “On Sanctions” regarding the “blocking assets” type of sanction (there is no mechanism for how to actually block);
- difficulty to determine that a certain property really belongs to the person on whom sanctions are applied (complex ownership structure; there are other bona fide owners; the mechanism of how to ring-fence them is not defined).

Meanwhile, according to [Ekonomichna Pravda](#), the Ministry of Justice cancelled the registration actions regarding the changes in the final beneficial owners of Smart Holding, Ukrgazvydobutok and Regal Petroleum Corporation (Ukraine) Limited of Vadym Novynskyi.

In particular, registration actions in the Unified State Register of Legal Entities, Private Entrepreneurs and Public Associations of Ukraine were cancelled by the Ministry of Justice order of April 10. The owners of the trusts were removed from the register, and Novynskyi was reinstated as the beneficial owner of these companies.

Back in January 2023, Novynskyi’s Smart Holding announced the completion of another round of restructuring, as a result of which its founder decided to transfer assets to a trust. The corresponding agreements with Smart Trust and Step Trust were concluded in November 2022 and registered by the Cyprus Securities and Exchange Commission.

Novynskyi managed to transfer his assets to the trust for a reason. He received a small “backlash” in the decision of the National Security and Defense Council of Ukraine on the imposition of sanctions, which he actually took advantage of and which gave him the opportunity to take a number of legal actions to remove his assets from the sanctions (learn more [here](#)).

However, it seems that the situation has turned in the opposite direction. Thus, according to the [Prosecutor General’s Office](#), the corporate rights of 40 enterprises and 30 gas wells, which extract minerals in significant quantities, and real estate for a total cost of over 3.5 billion UAH have been seized.



During the investigation, it was established that the businessman (note: *it is obvious that we are talking about Vadym Novynskyi*), after applying personal special economic and other restrictive sanctions to him, re-registered the enterprises he owned to associated persons. These are foreigners who have a direct connection with the aggressor state. He carried out registration actions with the assistance of private notaries and state registrars in order to avoid blocking his assets, including enterprises operating in the gas production industry.