

RuAssetsWatch

MONITORING INITIATIVES TO CONFISCATE RUSSIAN ASSETS FOR THE RECOVERY OF UKRAINE

June 2023

In this release:

- The U.S. Congress has presented the draft Rebuilding Economic Prosperity and Opportunity (REPO) for Ukrainians Act. If adopted, it would introduce a legal mechanism for the confiscation of the Russian Central Bank assets frozen in the United States and their transfer to Ukraine.
- The EU does not yet have legal options to confiscate the frozen assets of the Russian Central Bank. Instead, according to the President of the European Commission Ursula von der Leyen, a mechanism for transferring the proceeds from the management of such assets to rebuild Ukraine will be proposed soon.
- Estonia may become the first European country to implement a mechanism for confiscating the assets of sanctioned Russian citizens and companies to compensate Ukraine for losses. The Estonian government has prepared a draft law amending the law on international sanctions, which will be submitted for approval.
- On June 23, the EU Council approved the 11th package of economic and individual restrictive measures on Russia aimed at strengthening existing EU sanctions and combating their circumvention.

- **The UK introduces new legislation that allows sanctions on Russia to be maintained until Ukraine receives compensation. This means that the Russian sovereign assets will remain immovable until the Russian Federation pays the damages. The new legislation also allows sanctioned individuals to voluntarily donate frozen funds to rebuild Ukraine.**
- **Meanwhile, GBP 2.3 billion from the sale of Chelsea FC by the sanctioned Russian oligarch Abramovich, which was promised to victims of the war in Ukraine, is in limbo amid disputes over how the money should be spent. The UK is still balancing between the need to send funds to Ukraine and the risk of being perceived as accommodating the oligarch's wishes.**
- **Despite the fact that Russia's oil and gas revenues dropped by more than a third in May due to lower oil prices against the background of Western sanctions and a reduction in gas exports to Europe, the Russian Federation continues to generate significant profits from exports of oil and petroleum products by sea. A journalist investigation into Geneva-based company Fractal Shipping confirms this.**
- **The Verkhovna Rada adopted amendments to the Law "On the State Property Fund of Ukraine" which, inter alia, change the procedure for dealing with sanctioned assets. In particular, according to the decision of the High Anti-Corruption Court, the confiscated property subject to sanctions will be transferred to the State Property Fund, which will independently decide what to do with the assets seized (privatize, lease or keep them under management).**
- **The Ministry of Justice of Ukraine filed a claim with the High Anti-Corruption Court for the application of sanctions (in the form of assets confiscation) against the actual owners of VS Energy – the so-called Luzhniki Group. The Ministry of Justice requests to withdraw the corporate rights in 8 electricity distribution system operators, 6 hotels, 2 industrial facilities, a shopping center and other corporate rights in 31 legal entities.**

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1. The democratic world is looking for mechanisms to confiscate the frozen Russian assets. Why is it so difficult to accomplish this?

Description of the situation

The United States has already introduced a legal mechanism for confiscating criminal assets of the Russian Federation in cases of sanctions evasion, which is a criminal offense, and soon the first confiscated funds under this mechanism will be used to rebuild Ukraine. However, these are insignificant assets, as the main frozen assets of the Russian Federation in the United States are sovereign. As a reminder, the U.S. Federal Reserve System [froze](#) almost USD 100 billion of assets of the Russia's Central Bank, while [another USD 200 billion is](#) frozen in the European Union.

Discussions on the confiscation of the frozen assets of the Russian Central Bank have been ongoing among Ukraine's allies since the beginning of the large-scale invasion, but no real mechanisms for their confiscation have been proposed. It is a matter of decisiveness in making a political decision and setting a precedent, and legal mechanisms will be found. And when EU leaders say that there are no legal grounds for confiscation of frozen assets of the Russian Federation, they really do not exist, because there are no relevant laws. But they need to be adopted. It seems that such a precedent may be set in the United States of America.

The U.S. Congress has [introduced the draft](#) Rebuilding Economic Prosperity and Opportunity for Ukrainians Act, which allows for additional assistance to Ukraine using assets confiscated from the Central Bank of the Russian Federation and other sovereign assets of the Russian Federation. The bill was introduced in the Senate by Senators Jim Risch and Sheldon Whitehouse, and in the House of Representatives by Representatives Michael McCaul, Marcy Kaptur, Joe Wilson, Steve Cohen and Thomas Kean Jr. This means that the initiative is bipartisan and came from parliamentarians of both houses of the U.S. Congress, which increases the chances of its adoption.

In particular, it is proposed to:

- give the president the authority to confiscate Russian sovereign assets that have been frozen in the United States and transfer them to assist in Ukraine's reconstruction efforts;
- prohibit the release of funds to sanctioned Russian entities until Russia withdraws from Ukraine and agrees to provide compensation for harm caused by its unprovoked war;
- instruct the president to work with allies and partners to establish an international compensation mechanism to transfer confiscated or frozen Russian sovereign assets to assist Ukraine;
- give the State Department Office of Sanctions Coordination additional resources to work with partners and allies abroad toward the goal of confiscation of additional Russian sovereign assets in other countries.

“It will cost hundreds of billions of dollars to rebuild Ukraine’s economy after its people beat back Russia’s murderous and brutal invasion; it only makes sense that Putin’s Russian regime should foot that bill,” said Senator Whitehouse. ***“The bipartisan REPO Act would ensure the United States – as the lynchpin of the transatlantic alliance – can take a leadership role in making that happen.”***

Analyzing the legislative initiative, the [Financial Times](#) writes that if Russian money finances a significant part of Ukraine’s reconstruction, it will reduce the cost to Western allies at a time when fears are growing that significant additional aid to Ukraine will be cut. The legislation also clarifies the legal authority of the U.S. president to take actions that will make it more difficult to challenge such actions in court.

However, both the U.S. and the EU have doubts about the viability of the idea of transferring frozen assets of the Russian Federation to Ukraine for recovery, which complicates the agreement on the plan. Concerns about the process of confiscating and transferring Russian sovereign assets are that it could destabilize financial markets, set a precedent for expanding such actions as a foreign policy tool around the world, and encourage a symmetrical response from moscow.

At the same time, [Bloomberg](#) writes, referring to the report of the [Working Group on using Russian frozen assets](#), that the EU cannot legally confiscate the frozen assets of the Russia’s Central Bank, and instead will develop a mechanism for transferring the proceeds of these assets to rebuild Ukraine.

The EU working group assessed options for the use of the frozen funds in accordance with EU and international law. In its report, the members of the working group concluded that it sees “no credible legal pathway that would allow for the confiscation of frozen or immobilized assets solely on the basis that these assets are subject to EU restrictive measures”. Instead, the members of the working group propose to direct the profits from the investment of frozen Russian funds to Ukraine.

At the [Ukraine Recovery Conference in London](#), President of the European Commission Ursula von der Leyen, among other things, [said](#): *“The European Commission has proposed to create a new [Facility for Ukraine within the budget of the European Union](#). It will ensure constant financial support until 2027. The Facility will be financed in three ways: with grants from the EU budget; with loans raised on capital markets; and eventually **with proceeds from the immobilised Russian assets. We will come with a proposal for these assets before the summer break.**”*

However, the European Central Bank [warned](#) the European Commission, arguing that this could undermine confidence in the euro and harm financial stability. The ECB warned that plans to redirect payments on bonds held by the Russian Central Bank to finance Ukraine would send a bad signal to global markets.

According to [Financial Times](#)’ economic commentator Martin Sandbu, since the EU obliged custodians of Russian state assets to report to the European Commission on their

quantity, data for the first quarter of 2023 are already available. Although it is still unclear how the new EU reporting requirements are defined without a presumption that the reports should be made public. There are no strong arguments for non-disclosure, as the Central Bank of the Russian Federation or other institutions of the Russian state hold assets in government bonds issued by sanctioned governments or on deposit with their central banks. Fortunately, several governments have realized this: Belgium has announced that approximately EUR 180 billion of assets of the Central Bank of the Russian Federation are held in the accounts of the Belgian depository Euroclear.

The EU can receive income from these Russian assets while it resolves the legal problems of their confiscation. Over the past year, the sovereign bonds of the Central Bank of the Russian Federation have been converted to some extent into cash as bonds and interest have come due, but they will remain in Euroclear's custody under sanctions. Like any bona fide custodian, Euroclear manages the funds in such a way as to make a profit, and this profit no longer belongs to Russia's Central Bank (*in the first quarter of 2023, it earned EUR 734 million in profit on interest from sanctioned assets of the Russian Federation – note*). Since the interest rates on these assets have increased dramatically (*from 0-1% at the beginning of the invasion to 4% now – note*), significant amounts can be obtained if managed effectively. That is, **the discussed plan to use the income from the sovereign assets of the Russian Federation is a good solution, but not a substitute for the legal strategy of confiscating all frozen assets of the Russian Federation.**

However, EU leaders at the [summit in Brussels](#) on 29-30 June supported a cautious study of the use of income from the frozen assets of the Russian Central Bank. According to [Bloomberg](#), the assets of the Central Bank of the Russian Federation will bring approximately EUR 3 billion of profit, which will be used to rebuild Ukraine. More than half of these assets are cash and deposits, the rest are in securities that will be converted into cash as they mature in the next 2-3 years.

While the allies are thinking about how to use the frozen assets of the Russian Central Bank, **Estonia may become the first European country to implement a mechanism for confiscating the assets** of sanctioned Russian citizens and companies to compensate Ukraine for damages. The Ministry of Foreign Affairs, in cooperation with the Ministry of Justice of Estonia, [has prepared](#) a draft law amending the law on international sanctions, which will be submitted for approval in the near future. Other countries can also use this model if they wish.

In particular, the Estonian government emphasized that under international law, damages caused by illegal means are subject to compensation. Russia has grossly violated the UN Charter and the prohibition on the use of force in interstate relations. Compensation for damages caused by the aggressor, if Russia does not compensate for them itself, will be a so-called "advance payment" from frozen assets. A prerequisite for the use of frozen assets is an international agreement with Ukraine or an international compensation mechanism to track damage and compensation. The first step is the [Register of Damage](#) caused by war created by the Council of Europe.

In other words, despite the political, economic and legal difficulties, Ukraine’s allies are getting closer to the point where the aggressor should pay for the damage caused by Russia’s aggression with its assets, not the countries that help Ukraine.

Analysis

In her column for [Ukrainska Pravda](#), Deputy Minister of Justice of Ukraine Iryna Mudra said: *“The Ukrainian reparations mechanism is a global tool that provides that all losses will be recorded in the Register of Damage, then a special commission will award payment, and the payment itself will come from a fund that will be filled with seized and then confiscated assets of Russia abroad.*

And this is the last but very difficult point to implement, since the creation and operation of the Register of Damage has already been approved by the agreement in Reykjavik on 17 May 2023. At the same time, the development of a legal agreement, the basis for the transfer of Russia’s seized assets to the fund, is still under discussion.

The main obstacle is overcoming sovereign immunity. However, if this point is soon agreed upon, the countries that have frozen Russian assets will be able to approve international contractual obligations and transfer the assets to the fund. To do so, they already have the support of the international community – a UN General Assembly resolution. And the Register of Damage has been created, which is half the battle. Its very existence shows that there is no turning back.”

In an article for [NV](#), Azeem Ibrahim, Director of the American think tank [New Lines Institute for Strategy and Policy](#), offers an innovative approach to circumvent Russia’s obstructionist tactics in international institutions, developed by his center together with legal and constitutional experts from different countries (more details on the report can be found [here](#)).

Thus, the authors propose to use a multilateral model of asset transfer. Namely, they recommend that each state identify and transfer all Russian state assets under its jurisdiction to an escrow account with a central bank, trust fund or similar structure for further disposal in accordance with international agreements. While Russian state assets are held in an escrow account, the rules and procedures for their further distribution should be made public in accordance with multilateral agreements and in the most transparent manner possible, in accordance with the objectives of the UN Resolution of 14 November 2022. Once a global fund is established to hold and distribute assets, such as the Bank for International Settlements in Switzerland, states can consolidate assets by transferring them to the global fund (*see diagram below*).

Using the legal options provided by the countermeasures regulations, this approach allows countries to go beyond simply freezing Russian assets and legally transfer about USD 350 billion to the National Bank of Ukraine. This model bypasses Russia’s veto power in international institutions, offering a means to accelerate Ukraine’s economic recovery and social restructuring.

The proposed countermeasures will suspend customary international law that grants sovereign immunity to Russian state assets (*it is important that the countermeasures are against states and therefore affect the immunity of states with respect to assets, not the assets themselves*). Compliance with sovereign immunity may be restored as soon as Russia fulfills its legal obligations to end its war of aggression and pay reparations, including financial compensation to the affected states. Since Russia's actions constitute a serious violation of peremptory norms of international law affecting all states, all states have the right to respond to these actions. Russia's full-scale invasion of Ukraine, accompanied by war crimes and crimes against humanity on a scale unseen since the World War II, requires a strong international response.

The authors of the model emphasize that state countermeasures are extrajudicial measures applied in accordance with domestic law, with wide discretion in policy development. Unlike bilateral cases, which are sometimes heard by the International Court of Justice or other tribunals, there are no standardized judicial or arbitration processes for complaints and adjudication. In the legal system of any state, countermeasures are extrajudicial in nature: They are adopted within the framework of national legal powers that give the executive branch of the state the ability to act in a certain way.

According to the authors of the multilateral model, the fact that Russia, having unleashed its aggression, left the means to compensate its victims in the jurisdiction of law-abiding states is unique in historical terms. These are not the first convincing arguments of international lawyers and scholars regarding the expansion of the legal doctrine to overcome sovereign immunity and the possibility of confiscating assets of the Central Bank of the Russian Federation (more details [here](#)).

2. Allies' proposals to increase pressure on the aggressor: 11th package of EU economic sanctions and UK's special path

Description of the situation

On 23 June, the EU Council [approved](#) the 11th package of economic and individual restrictive measures aimed at strengthening existing EU sanctions and combating their circumvention. The proposals for this package were put forward by the European Commission in early May, with the main goal of closing loopholes, addressing the problem of sanctions circumvention and strengthening law enforcement. However, the coordination of these proposals between the EU member states was very slow, in particular due to the disagreement of some member states (Greece and Hungary) with certain provisions of the package.

[According to](#) the European Commission, the 11th package guarantees that EU sanctions against Russia will be even better implemented based on the lessons learned during implementation over the past year. The package contains the following key elements:

TRADE

- the ability of EU countries to restrict the sale, supply, transfer or export of specified sanctioned goods and technology to certain third countries whose jurisdictions are considered to be at continued and particularly high risk of circumvention;
- extension of the transit prohibition for certain sensitive goods (e.g. advanced technology, aviation-related materials) exported from the EU to third countries, via Russia;
- addition of 87 new entities to the list of those directly supporting Russia's military and industrial complex in its war of aggression against Ukraine. They are subject to tighter export restrictions for dual-use and advanced technology items. In addition to the Russian and Iranian entities already listed, this now also covers entities registered in China, Uzbekistan, the United Arab Emirates, Syria and Armenia;
- restriction on the exports of further 15 technological items found on the battlefield in Ukraine or equipment needed to produce such items;
- tightening restrictions on imports of iron and steel goods by requiring importers of sanctioned iron and steel goods that have been processed in a third country to prove that the inputs used do not come from Russia;
- prohibition to sell, license, transfer or refer intellectual property rights and trade secrets used in connection with restricted goods to prevent the sanctioned goods from simply being manufactured outside the EU;
- extension of the ban on export of luxury cars to all new and second-hand cars above a certain engine size (> 1.900 cm³), and all electric and hybrid vehicles;

TRANSPORT

- a full ban on trucks with Russian trailers and semi-trailers from transporting goods to the EU. This will clamp down on the circumvention of the prohibition for Russian freight road operator to carry goods in the EU;

- prohibition to access EU ports for vessels that engage in ship-to-ship transfers suspected to be in breach of the Russian oil import ban or G7 Coalition price cap;

- prohibition to access EU ports for vessels if a vessel does not notify the competent authority at least 48 hours in advance about a ship-to-ship transfer occurring within the Exclusive Economic Zone of a Member State or within 12 nautical miles from the baseline of that Member State's coast;

- prohibition to access EU ports for vessels which manipulate or turn off their navigation tracking system when transporting Russian oil subject to the oil import ban or G7 price cap.

ENERGY

- end of the possibility to import Russian oil for Germany and Poland by northern section of the Druzhba oil pipeline. However, oil originating from Kazakhstan or another third country will be able to continue transiting through Russia and be imported into the EU via the Druzhba pipeline.

In addition, over 100 additional individuals and entities are subject to asset freezes. This includes senior military officials, decision makers on the war, persons involved in the illegal deportation of Ukrainian children to Russia, judges who took politically motivated decisions against Ukrainian citizens, persons responsible for the looting of cultural heritage, businesspersons, propagandists, as well as Russian IT companies providing critical technology and software to the Russian intelligence, banks operating in the occupied territories and entities working with the Russian armed forces.

At the same time, another ally of Ukraine, the United Kingdom, has become more active, offering its own model of sanctions restrictions and the possibility of obtaining frozen assets for the reconstruction of Ukraine. Thus, the UK government [is introducing new legislation](#), in particular, proposing to maintain sanctions against Russia until Ukraine receives compensation. This means that the sovereign assets of the Russian Federation in the UK will remain immovable until Russia pays for the damage it has caused to Ukraine.

As a reminder, since Russia's large-scale invasion of Ukraine, the UK [has frozen](#) more than GBP 18 billion worth of Russian assets and [imposed sanctions](#) on more than 1,550 individuals, including Roman Abramovich, the former owner of Chelsea Football Club.

In particular, as noted by the UK government, this package allows sanctions to be maintained while changing their goals – now sanctions can be used to get Russia to pay compensation for the damage caused.

The new legislation also provides an opportunity for sanctioned Russians who say they support Ukraine to put their words into action and legally donate frozen funds for the reconstruction of Ukraine. This will be a voluntary process through which sanctioned individuals can apply for the allocation of funds to support the recovery and reconstruction of Ukraine. At the same time, the British point out that there will be no coercion of such persons, nor any offer to lift sanctions in exchange for donations. The exact mechanics of the fund that will pay these donations will be announced in due course.

In addition, new reporting obligations are being introduced with respect to individuals and entities associated with the Russian regime, which is another step in enhancing asset transparency. This new responsibility builds on the UK's existing set of compliance tools. Failure to disclose information about assets may result in further financial sanctions or asset confiscation.

Finally, reporting of assets to the Central Bank of the Russian Federation, the Ministry of Finance of the Russian Federation and the National Welfare Fund of the Russian Federation in the UK will help provide the government with a complete picture of their value and origin, and thus assist in monitoring compliance and detecting sanctions evasion.

The UK also introduced new sanctions against Belarus. According to the [Financial Times](#), they include a ban on imports of gold, cement, timber and rubber from Belarus.

Despite the fact that Belarus has already been sanctioned by the EU and the UK for helping Russia's military efforts in Ukraine, which has hit its economy hard, the differences between the sanctions regime imposed on Moscow and Minsk have allowed some trade to continue between them.

The new restrictions aim to close some of these loopholes by more closely aligning sanctions against the two countries, including by imposing further restrictions on Belarus' access to UK financial markets. The embargo on exports of timber, cement and rubber from Belarus aligns UK sanctions with those of the EU.

At the same time, the EU has been seeking to introduce similar measures against Minsk for six months, but the 27 member states failed to reach an agreement due to Lithuania's opposition to the proposed derogation from Belarusian fertilizer exports. Belarus is one of the largest producers of potash fertilizers in the world.

Analysis

According to [experts of the Dnistrianskyi Center](#), analyzing the UK's legislative initiatives, the plan contains several restrictions.

First, it applies only to private assets: state, or "sovereign" assets, which are protected by immunities, will continue to be left "behind the scenes" and there is no solution for them.

Secondly, the mechanism of “voluntary transfer”, although it looks interesting, does not contain any guarantees. The owners, including Russian oligarchs, will be able to demand special conditions for the transfer of these funds or agree to freeze them indefinitely.

The experts’ argument is supported by the situation that arose with Russian oligarch Roman Abramovich. According to the [Financial Times](#), less than two weeks after Russia’s invasion of Ukraine, Abramovich tried to save Chelsea by transferring ownership to his own charitable foundation. But the plan failed, and the club had to be sold. However, more than a year after the sale, the funds in the amount of GBP 2.3 billion are still frozen in a bank account due to UK sanctions against Abramovich and controversy over his promise to donate the money to victims of the war in Ukraine. The problem is that it has not been decided how the funds can be used. The UK government wants the money to be used within Ukraine. However, there are opinions (*not without the oligarch’s own suggestion*) that this is not optimal, since Abramovich has allocated money to “all victims of the war in Ukraine”. As the newspaper notes, the United Kingdom is balancing between the need to send funds to war-torn Ukraine and the risk of being perceived as accommodating the oligarch’s wishes.

Thirdly, the UK government’s intention to monitor the use of the funds is not yet clear, nor is it clear how it will correlate with the international compensation mechanism that Ukraine is currently working on.

The creation of several parallel mechanisms can only complicate the access to compensation for victims of aggression. Instead of simply ending Russia’s aggression against Ukraine, the goal is to pay full compensation. Experts pointed to the need for this as early as last March, and this creates certain guarantees.

However, on the other hand, the situation shows that the **priority for the allies is to force Russia to voluntarily agree to compensation for damage, and they consider confiscation as a last resort.**

The problem of sanctions evasion and finding ways to prevent it remains a key issue on the agenda of Ukraine’s partner countries. Only joint efforts in this area and information exchange can yield effective results.

The United States can serve as an example of such work. For example, the U.S. Departments of Justice, Commerce, State and Treasury recently issued a new [warning](#) document on the threats posed by Iran’s procurement, development and proliferation of unmanned aerial vehicles (UAVs).

In particular, they warn of key components that Iran is seeking to develop in its UAV program, as well as organizations involved in the procurement, production and proliferation of Iranian UAVs. The document also provides guidance to exporters, manufacturers, distributors and financial institutions on how to implement effective due diligence and internal controls in order to ensure compliance with legal requirements throughout the supply chain and avoid inadvertently contributing to Iran’s UAV program.

As noted by the U.S. Department of Justice, this warning complements the ongoing work of the KleptoCapture Task Force and the Interagency Disruptive Technology Strike Force, which focuses on investigating and prosecuting the illegal transfer of sensitive technologies to foreign adversaries, including Iran. It is important for businesses to monitor their compliance obligations because of the threat posed by the extensive foreign network of procurement agents, shell companies, suppliers, and intermediaries that Iran uses to obtain UAV components, all of which use various methods to evade export controls and sanctions.

At the same time, it looks like the EU will finally adopt a [directive criminalizing sanctions circumvention](#) in the coming months. This is a logical step, given that the 11th EU sanctions package is focused on preventing sanctions evasion. According to the *Financial Times*, ministers of justice of EU member states have agreed on a draft act to make it easier to seize the assets of Russian oligarchs and other individuals or legal entities accused of circumventing EU sanctions because of Russia's war in Ukraine.

According to Minister for Justice of Sweden Gunnar Strömer, this *"will give member states new tools to enforce sanctions"*. The measures will hit banks that deal with sanctioned individuals, legal entities or states. However, the new rules must be agreed upon with the European Parliament before they come into force. Negotiations are expected to begin by August.

At the same time, the G7 countries believe that sanctions in the form of price caps on Russian oil are effective and significantly limit Russia's revenues. In particular, the U.S. Department of the Treasury's [report on the progress of price caps](#) states that:

- according to the Ministry of Finance of the Russian Federation, federal government oil revenues from January-March of 2023 were over 40 percent lower than a year prior. Before the war, oil revenues constituted 30-35 percent of the total Russian budget. In 2023, oil revenues have fallen to just 23 percent of the Russian budget;

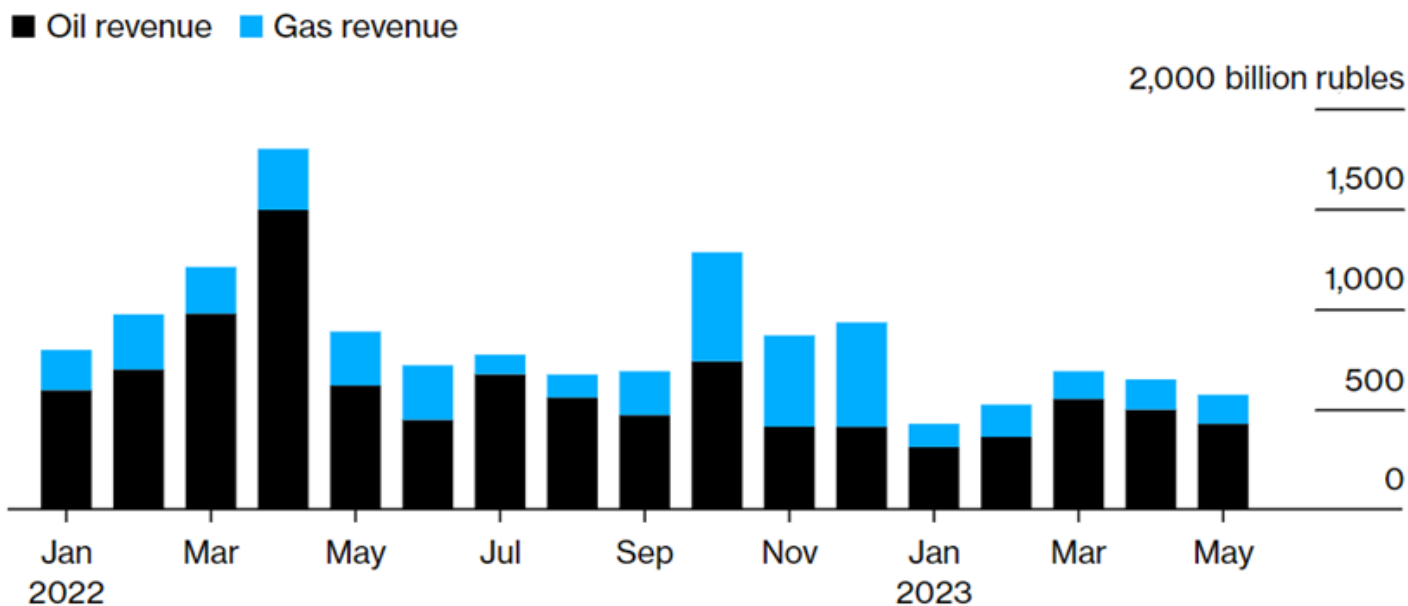
- this decline in revenue has occurred despite Russia's exporting roughly 5 to 10 percent more crude oil in April 2023 compared to March 2022;

- in response to the price cap, Russia has been forced to alter the way it taxes oil such that it institutionalizes the discounted value of Russian crude – essentially writing the steep discount into law;

- despite widespread initial market skepticism around the price cap, market participants and geopolitical analysts have now acknowledged that the price cap is accomplishing its goals.

[Bloomberg](#) analysts conducted their own research and noted that in May 2023, Russia's oil and natural gas revenues fell by more than a third. Budget revenues from oil and gas taxes fell by 36% year-on-year to RUB 570.7 billion (USD 7 billion). Taxes on oil and petroleum products, which accounted for 75% of total hydrocarbon revenues in May, fell 31% to RUB 425.8 billion.

The drop in budget revenues occurred after the EU banned most maritime imports of crude oil and petroleum products and the G7 countries imposed price caps on the sale of Russian oil to third countries.



Source: Bloomberg

Note: Oil revenues include a mineral extraction tax on gas condensate and an export duty on petroleum products

However, some critics argue that the sanctions have simply pushed the bulk of Russia’s oil trade into the shadows: they have shifted it from well-known global trading and shipping companies to new, lesser-known and less experienced operators. In response, the U.S. Department of the Treasury published an [alert](#) about possible evasion of the price cap regime, in particular regarding the exportation of ESPO oil. This was reported by the [Financial Times](#).

A noteworthy article was published by Blick, Switzerland entitled [How a Swiss company makes billions on Russian oil](#), which describes how, despite the sanctions, the Fractal Shipping, Geneva has legally made billions on Russian oil and thus financed Putin’s war machine.

According to Blick, Fractal Shipping has existed since February (!) 2022. The company has built a fleet of 27 vessels in a short time. Despite the EU sanctions, which were also imposed by Switzerland, the company has transported Russian crude oil and petroleum products worth approximately CHF 3 billion since April 2022.

Since the beginning of the war, several shipping companies have withdrawn from the Russian oil business because they did not want to help finance the war. At the same time, however, new companies began to emerge, such as Fractal Shipping. Its fleet was financed in the amount of CHF 550 million thanks to “a group of investors based in Dubai”. A closer look at the papers revealed that the vessels were owned by shell companies in the Marshall Islands, represented by 25 different Indian directors.

As an analyst at the consulting company Rystad Energy noted to the publication, “over the past few months, Russia’s export capabilities have increased by 100 thousand barrels per month in the form of new players with old tankers ready to transport Russian oil”. At the same time, the anonymous expert said that although there are many such companies, Fractal Shipping

is one of the market leaders. According to the Centre for Research on Energy and Clean Air (CREA), in 2022, Russia earned about EUR 58 billion from oil exports by sea through such companies.

A similar situation with the circumvention of sanctions occurs with the importation of luxury goods. A [New York Times](#) investigation reveals a global network of intermediaries that allows Russia to import sanctioned Western goods. In Moscow, the latest iPhones are available for same-day delivery and cheaper than the retail price in Europe. Department stores still stock Gucci, Prada and Burberry, and car sales websites feature new Land Rovers, Audis and BMWs. Russian demand for luxury goods remains high, and traders in Dubai and elsewhere are meeting it. The Russian government also encourages “parallel imports” of products without the consent of their manufacturers.

New trade patterns are reflected in international statistics. For example, EU exports of automobiles to Russia dropped from EUR 5 billion in 2021 to approximately EUR 1 billion in 2022. However, EU exports to Kazakhstan almost quadrupled to more than EUR 700 million, and exports to the UAE increased by about 40% to EUR 2.4 billion. Armenia reports that in 2022, car imports more than quintupled to USD 712 million. As a rule, Western automakers and distributors generally deny that their cars are coming to Russia in significant quantities, or that there is a surge in sales in the Emirates.

Meanwhile, the Russian dictatorship has decided to retaliate against the West for the sanctions imposed. According to the [Financial Times](#), the kremlin has secretly ordered the adoption of legislation that allows for the seizure of assets of “disobedient” Western companies and is discussing even more draconian measures to fully nationalize these assets. According to the publication, the Russian state is given a priority right to purchase any Western assets at a “significant discount”. In April, Russia “acquired” subsidiaries of Fotum, Finland and Uniper, Germany in response to what it called “illegal expropriation of Russian assets abroad”. But at the time, the kremlin’s decree was specific to these two companies. In deciding whether to extend such powers to thousands of Western companies, **the Russian Federation will be watching what happens to the roughly EUR 300 billion in frozen assets of the Russian Central Bank.**

3. Ukraine is trying to optimize the processes of managing the assets of sanctioned persons: new legislation on the SPFU and the future of ARMA

Description of the situation

The Verkhovna Rada adopted a [law \(draft law No. 8250\)](#) on amendments to the Law on the State Property Fund of Ukraine. The law is intended to optimize the structure of the SPFU, restore large-scale privatization and increase the efficiency of work with property under sanctions.

The new law also changes the procedure for dealing with sanctioned property:

- the High Anti-Corruption Court will decide to transfer confiscated sanctioned property to the SPFU;
- the SPFU will independently decide what to do with the assets recovered as the state revenue;
- all proceeds will be used to finance Ukraine's recovery needs through a special fund.

In addition, the new law:

- prohibits persons under sanctions and citizens of aggressor countries from holding positions of heads and members of supervisory boards of state-owned enterprises;
- abolishes the need for local authorities to approve the candidacies of heads of state-owned enterprises managed by the SPFU;
- lifts restrictions on the validity periods of state property lease agreements for the period of martial law.

Analysis

The adopted law clearly defines that assets recovered by the decision of the High Anti-Corruption Court as the state in accordance with subparagraph 1¹ of paragraph one of Article 4 of the Law "On Sanctions" are transferred to the SPFU, which decides how to use them most effectively for the state (privatize, lease out or keep them under management).

But there is another institution in Ukraine that has so far concentrated a significant amount of assets of Russians, belarusians and their associates seized by court order and operates on the model of managing seized assets. This is the National Agency of Ukraine for Finding, Tracing and Management of Assets Derived from Corruption and Other Crimes (ARMA). If the seized property is transferred to ARMA for management by a court decision, the agency either looks for a manager for the property or sells it at auction (if the property is perishable).

For some time now, ARMA has been plagued by a string of corruption scandals related to the low efficiency of managing assets confiscated from sanctioned persons. In particular, the Office of the President and MPs dissatisfied with the work of the ARMA discussed the transfer of more than 30,000 assets under its management to the State Property Fund.

According to [Forbes](#), international partners are not happy with this idea, as the transfer of functions from one government agency to another will not solve the problem of efficiency of work. Instead, they propose to first conduct a detailed audit of the agency, which will be carried out by experts from the EU, the U.S. and Ukraine under the coordination of the EU Anti-Corruption Initiative in Ukraine (EUACI) and the U.S. Agency for International Development (USAID). International auditors must confirm or refute the thesis that ARMA is ineffective in finding managers for seized assets.

According to the interlocutors of [Forbes](#) in the Verkhovna Rada and among anti-corruption organizations, the election of Olena Duma as the new head of ARMA may accelerate the process of significantly weakening ARMA's powers and transferring the management of confiscated assets to the State Property Fund.

At the same time, the SPFU's workload may soon increase significantly – on 28 June 2023, the Ministry of Justice of Ukraine [filed a claim with the High Anti-Corruption Court to impose sanctions](#) on a number of related parties controlling VS Energy Group (O.M, Babakov, Ye.L. Hiner, M.V. Voievodin, V. Dambins, V. Vigant, A. Altbergs, M.V. Yaroslavska, O.Y. Sizerman and N.Yu. Selivanova). The Ministry of Justice requests to withdraw the corporate rights of 8 electricity distribution system operators (regional energy companies), 6 hotels, 2 industrial facilities, a shopping center and other corporate rights of 31 legal entities.

As a reminder, on 12 May, President Volodymyr Zelenskyy signed a [decree](#) on the introduction of sanctions against legal entities and individuals, including VS Energy International NV (Netherlands), to which a number of regional energy companies in Ukraine and VS Energy Latvia are registered.