

Spotlight on Corruption - Written Evidence (RUI0022)

Spotlight on Corruption's submission to the House of Lords European Affairs Committee inquiry "Implications of Russia's invasion of Ukraine for UK-EU relations"

Introduction

Spotlight on Corruption is an anti-corruption charity that shines a light on the UK's role in corruption at home and abroad.¹ We strive to ensure the UK has transparent, accountable institutions that prevent corruption and allow democracy to flourish. To achieve this we highlight corruption and the harm it causes, and campaign to ensure the UK implements and enforces its anti-corruption and sanctions laws effectively and has strong systems in place to prevent corruption. We also act as policy entrepreneurs, researching and advocating robust and innovative policy recommendations to make the system better.

Our answer to Question 2 serves as a broad summary of our responses to Questions 2(a), (b) and (c).

Question 2: How would you assess coordination and cooperation between the EU, the UK and other partners on the imposition, implementation and enforcement of sanctions against Russia, Belarus and individuals from those countries since the Russian invasion of Ukraine?

1. The global sanctions response to Russia's full-scale invasion of Ukraine has been unprecedented, not only in terms of the scale and severity of sanctions measures that have been imposed but also the extent of international coordination and cooperation that this has entailed. The rapid expansion of the UK's sanctions programme has not been without its challenges, but the UK government should be credited for acting at speed and under significant pressure in the early stages of the war to scale up its sanctions response.
2. The UK, EU and other partners including the US, Canada, Switzerland, Australia and Japan, have worked closely to coordinate the imposition of sanctions against Russia and Belarus. This has resulted in significant overlap on sectoral sanctions and in the lists of

¹ Registration number 1185872. Website: <https://www.spotlightcorruption.org/>

persons and entities designated by the UK and its partners, although gaps and discrepancies remain.² In answer to question 2(b) below, we draw attention to two examples of divergences in approach between the UK, EU and US – relating to the application of sanctions to entities owned or controlled by designated persons, and to the provision of legal advisory services.

3. Notwithstanding these discrepancies, the UK and its partners have been remarkably unified in their imposition of sanctions measures and their articulation of the foreign policy objectives sought to be achieved through them. By contrast, the implementation and enforcement of sanctions have arguably not been as consistent or coordinated across partners. As highlighted below in answer to question 2(a), we have concerns that weak implementation and enforcement will undermine the effectiveness of sanctions. We believe that international coordination and cooperation going forward should focus on strengthening the implementation and enforcement on sanctions.

Question 2(a): Witnesses to the Committee’s previous inquiry into the future UK-EU relationship raised some concerns about the effectiveness and enforcement of the sanctions that have been imposed. Do you agree with this? If so, how should this be addressed by the EU, UK, US and other partners?

4. While we cannot comment authoritatively on the effectiveness of UK sanctions from a strategic, foreign policy perspective,³ we can offer our analysis of how the UK’s sanctions measures and enforcement efforts have so far held up under judicial scrutiny and suggest how this might compare to developments in the EU and elsewhere.

Court challenges to sanctions measures

5. As part of our court monitoring programme, we have followed all major challenges to the government’s sanctions measures that have reached the courts since the full-scale invasion of Ukraine in 2022. The government has prevailed in every challenge so far:

² <https://www.atlanticcouncil.org/blogs/econographics/russia-sanctions-database/>

³ We note the submission made by the FCDO to the Committee stating at para 16 that “[t]he Government believes the sanctions introduced by the UK, in coordination with our allies, are working”:
<https://committees.parliament.uk/writtenevidence/126301/pdf/>

- 5.1. In March 2023, the government comfortably defended its designation of Belarussian tech company Synesis for providing surveillance software to Lukashenko's regime, with the High Court emphasising the "extremely broad" grounds for designation under the Belarus sanctions regime.⁴
- 5.2. In July 2023, the High Court upheld the lawfulness of the decision by the Transport Secretary to detain a superyacht owned by a wealthy Russian businessman, Sergei Naumenko, in spite of the government having considered and rejected his designation.⁵
- 5.3. In August 2023, the High Court rejected the first-ever challenge to a designation under the Russia sanctions regime, finding that the designation of UK/US dual national Eugene Shvidler was justified in view of the important objectives of the sanctions regime.⁶
- 5.4. In October 2023, the High Court dismissed Mikhail Fridman's challenge to refusals by the Office of Financial Sanctions Implementation (OFSI) to grant specific licences which would have allowed him to use frozen funds to pay for certain non-security staff and maintenance at his £65 million mansion in Highgate.⁷
6. These decisions have emphasised the broad powers the government has under sanctions legislation, and the respect the court will show to the government's determination of how these measures will achieve its foreign policy objectives. In the *Shvidler* case, the court noted that the government is best placed to assess the impact of the sanctions regime as a whole:

*"The effectiveness of any sanctions regime depends, not on the effect of a particular measure directed at a single individual, but on the cumulative effect of all the measures imposed under that regime, together with other types of diplomatic pressure."*⁸

⁴ *LLC Synesis v Secretary of State for Foreign, Commonwealth and Development Affairs* [2023] EWHC 541 (Admin): <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2023/541>

⁵ *Dalston Projects Limited & Others v Secretary of State for Transport* [2023] EWHC 1885 (Admin): <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2023/1885>

⁶ *Shvidler v Secretary of State for Foreign, Commonwealth and Development Affairs* [2023] EWHC 2121 (Admin): <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2023/2121>. For our analysis of the case, see: <https://www.spotlightcorruption.org/challenge-to-russia-sanctions-fails/> and <https://www.law360.co.uk/articles/1717869/russia-ruling-should-lead-uk-to-review-sanctions-policy>

⁷ *Fridman v HM Treasury* [2023] EWHC 2657 (Admin): <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2023/2657>

Concerns about weak enforcement

7. In contrast to the government's successful defence against sanctions challenges, early efforts to investigate suspected sanctions evasion by the National Crime Agency (NCA) have suffered serious setbacks. While the NCA reported that its new Combatting Kleptocracy Cell (CKC) has "*secured almost 100 disruptions – actions that remove or reduce a criminal threat – against Putin-linked elites and their enablers*",⁹ almost nothing is known publicly about their performance and the nature of cases that may be in the pipeline.
8. Meanwhile, the two cases that have come to public attention through the courts have struggled to progress:
 - 8.1. In May 2022, the NCA secured nine Account Freezing Orders (AFOs) against corporate accounts linked to sanctioned oligarch Petr Aven and seized roughly £80,000 in cash from his business associate Stephen Gater.¹⁰ However, three AFOs have since been set aside and the NCA recently returned a large number of digital devices seized as part of their investigation due to errors in the handling of legally privileged materials. These setbacks raise concerns about the progress of this 18-month investigation.¹¹
 - 8.2. In December 2022, a 50-person team including press officers from the NCA conducted a dawn raid at Mikhail Fridman's mansion in Highgate, seizing digital devices and significant amounts of cash as well as arresting Fridman himself.¹² But Fridman's court challenge exposing a series of blunders by the NCA has led the agency to concede that the search warrant – which was unsigned and incorrectly dated – was unlawful.¹³ The NCA subsequently announced they have dropped their investigation into Fridman for suspected sanctions evasion.¹⁴

⁸ *Shvidler v Secretary of State for Foreign, Commonwealth and Development Affairs* [2023] EWHC 2121 (Admin), para 137.

⁹ <https://www.nationalcrimeagency.gov.uk/news/wealthy-russian-businessman-arrested-on-suspicion-of-multiple-offences>

¹⁰ <https://www.standard.co.uk/news/uk/petr-aven-art-collector-oligarch-accused-breaching-sanctions-b1012038.html>; <https://www.spotlightcorruption.org/press-release-uk-court-rules-frozen-funds-can-be-used-to-pay-sanctioned-russian-billionaires-luxury-expenses/>

¹¹ This information is based on Spotlight's attendance at court hearings and documents we have obtained from the court.

¹² <https://www.nationalcrimeagency.gov.uk/news/wealthy-russian-businessman-arrested-on-suspicion-of-multiple-offences>

¹³ <https://www.reuters.com/world/europe/russian-billionaire-fridman-says-uk-raid-based-komproamat-2023-07-27/>

¹⁴ <https://www.bloomberg.com/news/articles/2023-09-15/uk-drops-probe-into-sanctioned-russian-billionaire-mikhail-fridman>

9. The problems exposed in these early enforcement efforts highlight the need for scrutiny of whether the new CKC is delivering on robust enforcement of sanctions. The government has consistently refused to answer parliamentary questions about the CKC's staff, expertise or budget, or even how many arrests or criminal charges for sanctions-related offences have been made.¹⁵ While recognising the need to protect individual investigations that may be ongoing, there needs to be greater transparency about this basic information to ensure the public and Parliament can hold the government to account for the enforcement of sanctions.
10. Meanwhile, the lack of civil monetary penalties for sanctions breaches also raises questions about whether tough sanctions measures are being backed up by a credible threat of enforcement. While its Director claims OFSI is a "world leader" in sanctions enforcement, it has yet to develop a strong track record, issuing just 9 fines for sanctions breaches since it was established in 2016.¹⁶
11. It is also striking that OFSI has not yet issued a single fine for a breach of the Russia regulations since the full-scale invasion of Ukraine in February 2022, despite the law changing in March 2022 making breach of sanctions a strict liability offence.¹⁷ The only enforcement action OFSI has taken was to exercise its disclosure power to publicly censure the fintech Wise Payments Limited for a minor sanctions breach despite 127 companies self-reporting sanctions breaches since February 2022.¹⁸

Enforcement action in Europe and the US

12. Although EU sanctions have not been strongly enforced either, reporting suggests there appears to be more enforcement action underway in some European countries. For example:

¹⁵ <https://questions-statements.parliament.uk/written-questions/detail/2023-07-03/191989>

¹⁶ <https://ofsi.blog.gov.uk/2022/06/08/new-enforcement-powers-a-message-from-giles-thomson-director-of-ofsi/>; <https://www.gov.uk/government/collections/enforcement-of-financial-sanctions>

¹⁷ Section 54 of the Economic Crime (Transparency and Enforcement) Act 2022, amending section 146 of the Policing and Crime Act 2017: <https://www.legislation.gov.uk/ukpga/2022/10/part/3/chapter/1>. See guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1083297/15.06.22_OFSI_enforcement_guidance.pdf

¹⁸ <https://ofsi.blog.gov.uk/2023/08/31/ofsi-uses-disclosure-power-for-first-time/>; <https://www.ft.com/content/233891c0-2c8c-484a-88d3-86ba252d5b31>

- 12.1. In March 2023, the Dutch media reported 45 live criminal investigations into Russia sanctions evasion being undertaken by the Dutch prosecutor's office.¹⁹
- 12.2. The Latvian press claimed around the same time the authorities there had initiated 150 criminal investigations evasion of sanctions on Russia and Belarus.²⁰
- 12.3. Also in March 2023, it was reported that Swiss authorities had registered around 100 cases for suspicions of sanctions breaches, with proceedings opened in 23 cases while 13 criminal proceedings had been dropped for lack of evidence.²¹
- 12.4. Since the invasion of Ukraine, French authorities have opened 17 investigations into Russians (including sanctioned individuals) for suspected money laundering.²²
13. The US is further ahead than the UK or the EU, reporting in February 2023 that over 30 individuals and two corporate entities accused of sanctions evasion, export control violations, money laundering, and other crimes had been indicted – with defendants arrested in over a half-dozen countries. The US Department of Justice has also seized, forfeited, or restrained over \$500 million in assets belonging to Russian oligarchs and others.²³

Enhancing enforcement through a new duty to disclose assets

14. While it is a criminal offence to evade or circumvent sanctions in the UK, the lack of transparency around the assets held by sanctioned persons is hindering law enforcement efforts to detect and enforce sanctions evasion. This is compounded by the increasing complexity and sophistication of sanction evasion schemes, as highlighted by the National Crime Agency's red alert on sanctions evasion typologies by Russian elites and enablers.²⁴

¹⁹ <https://nltimes.nl/2023/09/17/dutch-defense-ministry-employee-arrested-selling-airplane-parts-russia>

²⁰ <https://press.lv/post/iz-za-narusheniya-sanktsij-protiv-rf-i-belorussii-sgd-nachala-okolo-150-ugolovnyh-protsessovthe>

²¹ <https://www.swissinfo.ch/eng/politics/ukraine-war--some-100-cases-identified-for-potential-violations-of-sanctions/48359866>

²² https://www.lemonde.fr/les-decodeurs/article/2023/03/01/une-villa-saisie-et-dix-sept-enquetes-ouvertes-les-sanctions-contre-les-oligarques-russes-commencent-a-porter-leurs-fruits-en-france_6163762_4355770.html

²³ <https://www.justice.gov/opa/press-release/file/1569781/download>

²⁴ <https://nationalcrimeagency.gov.uk/news/nca-and-ofsi-issue-red-alert-with-private-sector-on-financial-sanctions-evasion-typologies-by-russian-elites-and-enablers>

15. OFSI carries out an annual review of frozen assets which requires all persons who hold or control frozen assets to report the details of those assets to OFSI.²⁵ However, following parliamentary debate during the passage of the Economic Crime and Corporate Transparency Act 2023, the government has committed to introduce a new duty to disclose assets before the end of the year to strengthen its transparency powers and clamp down on the concealment of assets.²⁶ Under the proposed measure, a sanctioned person who fails to disclose assets held in the UK could receive a financial penalty or have their assets confiscated.
16. It is essential the government keeps its promise and introduces this new measure without delay. Its introduction would promote greater transparency about sanctioned assets in the UK and accelerate efforts to seize property that may be the proceeds of sanctions evasion. The measure would also enhance the work of the NCA's CKC unit, and provide the basis for possible civil and/or criminal investigations.

Question 2(b): Is there a need for greater coordination and cooperation between the EU and the UK on sanctions? If so, in what ways should this be developed?

17. The challenges outlined above suggest that the concealment of assets and the evasion of sanctions pose a threat to the effectiveness of the government's measures. For this reason, we believe the UK and its partners should prioritise efforts to strengthen coordination and cooperation on the implementation and enforcement of sanctions in particular.
18. This should include greater information- and intelligence-sharing between the UK and its partners, particularly to track cross-border financial flows and clamp down on the use of sanctions-neutral third countries as a way to dodge sanctions. For example, Cyprus has emerged as a hotspot for sanctions evasion affecting the UK and the US, suggesting more can be done through collaboration with the EU.²⁷ There is also a need to ensure this information- and intelligence-sharing includes regulatory authorities to ensure they can effectively

²⁵ <https://www.gov.uk/government/publications/annual-frozen-asset-review-and-reporting-form>

²⁶ <https://hansard.parliament.uk/Lords/2023-06-27/debates/EF8264AF-6478-470E-8B37-018C4B278F6E/EconomicCrimeAndCorporateTransparencyBill#contribution-490D34DB-C6F7-4326-A577-E54D1B6EA9D5>.

A similar proposal has been considered in the EU: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2022:194:FULL&from=EN>

²⁷ <https://www.independent.co.uk/news/world/europe/cyprus-ap-nicosia-vladimir-putin-moscow-b2354424.html>

supervise professionals who may be at risk of enabling evasion, whether wittingly or unwittingly.

19. At a more granular level, we would like to highlight two specific examples of divergences in approach between the UK, EU and US where we believe there is scope for greater coordination and consistency in the policy objectives and implementation of sanctions.

Ownership and control

20. First, there is a divergence in approach to the application of sanctions to entities that are owned or controlled by designated persons. While the US has adopted a 50% rule that is based solely on ownership, the UK and EU have an additional control test which potentially brings entities within the scope of sanctions even if a designated person's ownership interest is below 50%.²⁸ The control tests used in the UK and EU are also different from each other, and there is some uncertainty about their practical application.
21. We support the use of a control test in the UK to ensure that designated persons who are using proxies and other trusted associates, including family members, to influence or direct an entity's affairs are not able to operate beyond the reach of sanctions. However, to ensure the control test can be effectively implemented and enforced, there needs to be clarity about its application. A recent Court of Appeal decision has renewed debate about the nature and scope of control,²⁹ underscoring the need for further guidance from the UK government on how the test is to be understood and applied.

Legal advisory services

22. Second, there are discrepancies in the restrictions on providing and paying for legal services in the UK, EU and US. In our view, these reflect different policy choices that merit discussion and debate about how best to achieve the aims of the sanctions regime.
23. In June 2023, the UK government introduced new restrictions to prohibit lawyers from advising on certain business transactions that would be prohibited under sanctions if they happened in the UK.³⁰

²⁸ Regulation 7 of the Russia (Sanctions)(EU Exit) Regulations 2019: <https://www.legislation.gov.uk/uksi/2019/855/regulation/7>

²⁹ *Mints and Others v PJSC National Bank Trust and Another* [2023] EWCA Civ 1132: <https://www.judiciary.uk/wp-content/uploads/2023/10/Mints-v-PJSC-judgment-061023.pdf>

The purpose of the new restrictions – as stated in the government press release at the time – is to thwart Russia “*from benefitting economically from the UK’s world-leading legal expertise*”.³¹

24. A major concern with the new measures, as raised by the Law Society, is that they prohibit UK lawyers from providing advice to clients on compliance with international sanctions regimes.³² This is because an exception in the regulations to allow legal advice about compliance with UK sanctions on Russia does not extend to advice relating to non-UK regimes such as US and EU sanctions.³³
25. We agree that this restriction on compliance advice is counter-productive to the aims of the sanctions regime. It is essential that lawyers are able to provide advice to any person with the aim of ensuring all sanctions regimes are complied with. We have also recommended that any future measures should be preceded by better and more transparent multi-stakeholder engagement and be subjected to prior parliamentary scrutiny.³⁴
26. When responding to concerns about the new measures, the government explained that the exclusion of compliance advice was an inadvertent oversight in the drafting of the regulations.³⁵ This problem has now been addressed through the issuing of a new General Licence to permit compliance advice on all sanctions regimes.³⁶
27. The government has also since formulated the aims of the legal advisory restrictions in less ambitious terms than its initial announcement of the new measures.³⁷ This framing more accurately reflects that in practice, the restrictions seek to prohibit lawyers from advising on international commercial activities that would be in breach of UK sanctions if they were carried out by a British person or in the UK.³⁸ Rather than completely cutting off Russian businesses from accessing top-class UK legal advice, the measures give effect to

³⁰ <https://www.gov.uk/government/news/new-law-imposes-fresh-sanctions-on-russia-accessing-uk-legal-expertise>;
<https://www.legislation.gov.uk/ukxi/2023/713/regulation/3/made>

³¹ <https://www.gov.uk/government/news/new-law-imposes-fresh-sanctions-on-russia-accessing-uk-legal-expertise>

³² <https://www.lawsociety.org.uk/topics/anti-money-laundering/parliamentary-briefing-russia-sanctions-no-3-regulations-2023>

³³ <https://www.legislation.gov.uk/ukxi/2023/713/regulation/4/made>

³⁴ <https://www.spotlightcorruption.org/legal-sanctions-fail-to-stop-russia/>

³⁵ <https://hansard.parliament.uk/commons/2023-07-19/debates/9FFA87CC-D4A6-4EFF-BA05-A3EFB9FDC7A3/Sanctions>

³⁶ <https://www.gov.uk/government/publications/notice-to-exporters-202316-new-general-trade-licence-russia-sanctions-legal-advisory-services/note-202316-new-general-trade-licence-russia-sanctions-legal-advisory-services>

³⁷ <https://hansard.parliament.uk/commons/2023-07-19/debates/9FFA87CC-D4A6-4EFF-BA05-A3EFB9FDC7A3/Sanctions>

³⁸ <https://www.legislation.gov.uk/ukxi/2023/713/note/made>

a more limited policy aim of ensuring UK lawyers do not enable the circumvention of sanctions abroad.³⁹

28. This closes an important gap arising from the territorial application of UK sanctions but stops short of the UK's general professional services ban which targets other major sectors like accountancy, management consulting and public relations services.⁴⁰ Although government data suggests that legal services exports to Russia during 2022 were roughly half what they were in previous years, the £31 million in legal services traded with Russia last year is significant compared to the hit that some other sectors have taken – with manufacturing ceasing entirely and financial services dropping by as much as 65%.⁴¹
29. The scope of the new measures are not aligned with the EU ban on legal advisory services introduced in its eighth sanctions package against Russia.⁴²
 - 29.1. In one respect, the UK restrictions are broader than the EU ban because they prohibit legal advice to any non-UK person on activity that would enable the circumvention of sanctions abroad. By contrast, the EU ban only prohibits legal advisory services to the Russian government or Russian companies.
 - 29.2. However, the UK restrictions are narrower than the EU in terms of the scope of the legal advisory services that are prohibited. The UK measures apply only to legal advice on certain kinds of international business transactions – namely those that would be in breach of sanctions if carried out by a British person or in the UK.⁴³ By contrast, the subject-matter of legal advice is not limited under the EU ban, meaning that Russian business interests are completely cut-off from access to European legal services in a manner closer to the ban on other professional services in the UK and EU. An exception under the

³⁹ <https://www.legislation.gov.uk/ukxi/2023/713/regulation/3/made>;

https://www.legislation.gov.uk/ukxi/2023/713/pdfs/ukxiem_20230713_en_001.pdf

⁴⁰ <https://www.gov.uk/government/publications/professional-and-business-services-to-a-person-connected-with-russia/professional-and-business-services-to-a-person-connected-with-russia>

⁴¹

<https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/datasets/uktradeinserviceservicetypebypartnercountrynonseasonallyadjusted>

⁴² https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5989;

<https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/articles/theimpactofsanctionsonuktradewithrussia/november2022#trade-in-services-with-russia><https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.LI.2022.259.01.0003.01.ENG&toc=OJ%3AL%3A2022%3A259I%3ATOC>

⁴³ <https://www.legislation.gov.uk/ukxi/2023/713/regulation/3/made>

EU ban is made to preserve the right to a defence and legal representation.

30. The UK government's own assessment suggests that Russian business is "*highly dependent*" on UK legal services to operate internationally.⁴⁴ Given London's role as an international legal centre, the UK has accounted for 59% of all legal services imported to Russia from G7 countries. In monetary terms, this means that the UK has previously exported £56 million in legal services to Russian businesses a year.⁴⁵
31. In the US, there is a general licence for legal services contained in Federal Regulations but this only gives authorisation for the payment of professional fees or reimbursement for expenses as long as such funds do *not* come from a "blocked" (frozen) account or originate in the US.⁴⁶ The general rule in the US is that frozen funds may not be used to pay for legal services to designated persons, and even payment using non-frozen funds are subject to strict fee caps.⁴⁷
32. The UK general licence for legal fees sets a very different point of departure by authorising up to £1 million to be used from frozen funds to pay for permissible legal services.⁴⁸ While there are reporting obligations under the General Licence for legal services, there is no advance scrutiny by OFSI of what legal services are being provided.
33. OFSI has issued guidance on what it considers "reasonable" legal fees, using the Supreme Court Cost Guidelines (SCCG) as a benchmark.⁴⁹ Yet the General Licence for legal services sets upper limits that are higher than the SCCG hourly rates and exceed the fee caps in the US:
 - 33.1. The lowest fee earners in the UK could potentially charge more than double – and experienced London solicitors more than eight times – the hourly rate of US attorneys. At the top end of the scale, English barristers could charge up to 15 times more than US litigators.

⁴⁴ <https://www.gov.uk/government/news/sanctions-in-response-to-putins-illegal-annexation-of-ukrainian-regions>

⁴⁵ <https://www.gov.uk/government/news/new-law-imposes-fresh-sanctions-on-russia-accessing-uk-legal-expertise>

⁴⁶ § 589.506, <https://ofac.treasury.gov/media/922736/download?inline>

⁴⁷ <https://ofac.treasury.gov/media/6191/download?inline>

⁴⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1153971/Legal_Services_GL_INT20232954852.pdf

⁴⁹ <https://ofsi.blog.gov.uk/2021/06/30/reasonableness-in-licensing/>

- 33.2. The total amounts capped are even more striking as a contrast – the combined £1 million cap for pre- and post-designation legal work in the UK is 45 times more than the exceptional allowance in the US for complex and lengthy court proceedings.
34. Additionally, any use of frozen funds in the US to pay lawyers would be exceptional, and require a specific licence from the Office of Foreign Assets Control (OFAC) in the US Treasury. While OFAC retains discretion over the terms of any specific licences it grants, it has a clear policy aim of minimising the use of frozen funds to pay for legal services as far as possible. OFAC guidance indicates that a blocked party may only be reimbursed for legal fees and costs incurred in challenging their designation or the blocking of their property, and only where alternative funding sources are not available.⁵⁰ The guidance also explains that allowances for these payments are “*not intended to ensure complete compensation to counsel*”.

Question 2(c): Are there any lessons to be learned for future coordination between the EU and UK on sanctions policy in respect of other states?

35. Sanctions against Russia as a result of its full-scale invasion of Ukraine has in many ways transformed the UK’s sanctions landscape and raises important questions about the UK’s broader strategy in using sanctions as a foreign policy tool. In particular, sanctions against Russia have demonstrated how close coordination between the UK, EU and other partners has the potential to enhance the impact and effectiveness of sanctions.
36. These lessons about the value of coordination should be carried over to other geographic and thematic sanctions regimes, including the UK’s Global Anti-Corruption sanctions regime which has so far been under-utilised.⁵¹ For example, it was encouraging to see the UK, US and Canada work in lockstep to impose anti-corruption sanctions against the former governor of the Lebanese Central Bank, Riad Salameh, and his associates in August 2023.⁵² As the first co-

⁵⁰ <https://ofac.treasury.gov/media/6191/download?inline>

⁵¹ See further our submission to the Foreign Affairs Committee inquiry on “Responding to illicit and emerging finance” in June 2022: <https://www.spotlightcorruption.org/submission/submission-to-the-foreign-affairs-committee-inquiry-responding-to-illicit-and-emerging-finance-june-2022/>

ordinated imposition of anti-corruption sanctions, these measures sent a powerful and unified message that the UK and its partners will not tolerate impunity for corruption.⁵³

37. Given the EU proposal to establish a new sanctions regime for corruption, there is potential for closer collaboration between the UK and EU on the use of sanctions to combat corruption. We also support the recent recommendation by the Foreign Affairs Committee that the government make greater use of the Global Anti-Corruption Sanctions regime to designate “*those whose origins of wealth can be tied to assets they have illegally seized*”.⁵⁴ Through greater international cooperation and closer coordination between sanctions and law enforcement action, these assets should be returned to origin countries according to the Global Forum on Asset Recovery’s Principles for Disposition and Transfer of Confiscated Assets in Corruption Cases.

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⁵² <https://www.gov.uk/government/news/uk-us-and-canada-sanction-lebanons-former-central-bank-governor-riad-salameh-and-close-associates>

⁵³ <https://www.occrp.org/en/37-ccb/ccb/17951-new-sanctions-on-lebanons-former-central-bank-governor-likely-bring-frozen-assets-to-at-least-200-million-documents-show>

⁵⁴ <https://committees.parliament.uk/publications/41982/documents/208818/default/>, page 55.