

PISM REPORT

PROSPECTS FOR THE USE OF FROZEN ASSETS OF THE CENTRAL BANK OF RUSSIA



SZYMON ZARĘBA (ED.)

THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS

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LIST OF ABBREVIATIONS

| | |
|-------|--|
| AUD | Australian dollar |
| BIT | bilateral agreement on mutual support and protection of investments |
| CAD | Canadian dollar |
| CHF | Swiss franc |
| CNY | Chinese yuan/renminbi |
| CBR | Central Bank of Russia |
| EC | European Commission |
| ECB | European Central Bank |
| ECHR | European Convention for the Protection of Human Rights and Fundamental Freedoms |
| EPF | European Peace Facility |
| ERA | Extraordinary Revenue Acceleration Loans for Ukraine (G7) |
| ECHR | European Court of Human Rights |
| EUR | Euro |
| FSIA | Foreign Sovereign Immunities Act (USA) |
| GATT | General Agreement on Tariffs and Trade |
| GATS | General Agreement on Trade in Services |
| GBP | British pound |
| ICC | International Criminal Court |
| ICJ | International Court of Justice |
| IMF | International Monetary Fund |
| ITLOS | International Tribunal for the Law of the Sea |
| JPY | Japanese yen |
| OFAC | Office of Foreign Assets Control (USA) |
| OFSI | Office of Financial Sanctions Implementation (UK) |
| PCA | Permanent Court of Arbitration |
| REPO | Russian Elites, Proxies, and Oligarchs Task Force (G7) |
| RUB | Russian ruble |
| SEMA | Special Economic Measures Act (Canada) |
| TRIA | Terrorism Risk Insurance Act (USA) |
| UNGA | UN General Assembly |
| UNSC | UN Security Council |
| WTO | World Trade Organisation |

KEY FINDINGS AND RECOMMENDATIONS

Political aspects

- **For the future of the frozen foreign reserves of the Central Bank of Russia (CBR), the position of the G7 is most relevant**, as it is with members of this group that the bulk of the CBR's assets have been placed and they have been the key instigator of international sanctions on Russia for its aggression against Ukraine. The intensity of the debate over the permanent seizure of these assets is variable, influenced by differences in the assessment of the legal and economic consequences of possible actions and their potentially precedent-setting nature.
- The debate within the G7 over the permanent seizure of CBR assets needs a new impetus—**the best initiator could be the European Union, where the bulk of these funds are located, but this would first require a common political approach to the problem.**
- **The EU's priority should be to develop a common position on the way forward on CBR assets within the European Commission (EC)**—first and foremost between EU High Representative for Foreign and Security Policy Kaja Kallas and EC President Ursula von der Leyen. Subsequently, the Commission should work with countries favouring relevant solutions to seek consensus at the level of the EU Council, whose unanimous decision is required for further steps to be taken.
- **In the event of difficulties in coordinating action on the expropriation of CBR assets among all G7 members, it would seem sensible for the EU to agree with at least some of the countries meaning towards stronger action**, especially Canada and the UK.

Legal issues

- **There is disagreement among experts and states on the best legal basis for expropriating CBR assets, with Russia's possession of state immunity being the main factor hindering it.** Consequently, also taking new measures at national, EU and G7 level is fraught with risks in the economic, financial and legal spheres.
- **The expropriation of CBR funds does not have to be carried out using only one legal basis or for a single purpose.** The simultaneous use of several bases would limit the legal and economic risks of the action taken.
- **An acceptable legal risk involves basing Russia's possible expropriation on concepts of countermeasures or collective self-defence.** Subsequently, one may try to look for additional grounds for expropriation in sectoral international agreements, e.g. relating to counter-terrorism or the doctrine of necessity, but arguments based on these should be regarded as subsidiary.
- **It is advisable that any expropriations carried out in the form of countermeasures should be done gradually and in stages**, rather than one-offs. As long as the war in Ukraine does not end, it can be seen as a measure to compel certain behaviour. As long as Russia does not cease hostilities, it should be considered legitimate and legal to suspend respect for its immunity and to regularly transfer to Ukraine amounts from the CBR funds commensurate with the expenditure it has to incur on armaments.

- **At the same time, the possibility of confiscating other sums for reparations awarded by international courts in favour of Ukraine or from persons and entities harmed by Russian actions should not be rejected.** It would be beneficial to set up a special international commission to verify compensation claims, determine the extent of the damage and order compensation.
- **Considerations of possible legal bases or justifications for the expropriation of the CBR are more relevant from the perspective of the credibility of G7 members and their image vis-à-vis third countries than Russia's reaction.** Even a perfectly lawful confiscation of its bank's assets is likely to provoke retaliation.

Economic considerations

- **The expropriation of CBR assets by Western countries is not expected to have a significant impact on the credibility of the euro area and the status of the euro and the US dollar as reserve currencies.** Both maintain a dominant position in global foreign exchange reserves and no significant change in this regard is expected in the short to medium term.
- It cannot be ruled out that **the seizure of CBR assets could lead to an increase in government bond yields**, but assessing the extent of this risk is difficult, mainly due to the precedent-setting nature of the CBR assets case, if only by virtue of its scale. **There are many indications that this would be a temporary and transient effect, and that the European Central Bank has instruments to counteract a temporary deterioration** in the debt markets of EU member states.
- Russia is already retaliating against Western entities in response to the sanctions imposed on it, including the freezing of CBR assets. **In the event of the possible confiscation of these assets, it is to be expected that these actions will intensify, including further expropriation of assets of European companies.** However, **security considerations and the maintenance of an international order based on international law justify taking action regardless of the consequences that may be suffered by some of the private investors** who did not terminate their activities in Russia after the outbreak of aggression.

Possibilities of using the funds obtained

- **The transfer of appropriated funds to Ukraine could act as a deterrent for other states to desist from actions that blatantly violate the foundations of the existing international order, particularly aggression.**
- Depending on the legal basis used, **the funds obtained from the confiscation of CBR assets could be used to support Ukraine's military effort to defend itself against Russian aggression, compensate its victims and compensate for material damage, and finance Ukraine's reconstruction from war damage.**
- Transferring at least some of the confiscated funds to the purchase of weapons and equipment for the Ukrainian army **would maintain Ukraine's level of military support even though US support has been reduced.**
- The use of some of the proceeds from the expropriation of CBR assets to finance Ukraine's reconstruction from war damage **would be significant in the face of Russia's potential categorical refusal to pay any reparations**, shifting the actual burden of reconstruction onto Ukraine and the European Union offering it membership.

INTRODUCTION

The response of developed countries, particularly those in the G7, to Russia's aggression against Ukraine in 2022 was an example of decisive and swift action in the face of violation of the basic principles of the existing international order based on international law, including the prohibition on the use of force. Multi-vectoral actions included the creation of a coalition of states opposing the aggression in forums of international organisations, political, financial and military support for the embattled Ukraine and successive packages of sanctions (restrictive measures).¹ Among the latter was the freezing of Russian state assets deposited abroad, including those of the Central Bank of Russia (CBR) at the end of February 2022, estimated at around \$280 billion.² The role of the G7, working closely with the European Union in this regard, was crucial here, as it was this informal bloc of the world's most democratic economies that set the direction followed by other democratic countries siding with Ukraine as the victim of Russian aggression. At the same time, it was the entities belonging to this group that froze the vast majority of the CBR's foreign assets. For this reason, this report focuses on its activities, without questioning the importance of the involvement of a number of smaller economies in similar actions.

Almost as soon as the CBR funds were blocked, a discussion about the future of these assets began among G7 members, which has intensified in recent months. Several factors were involved. With another year of war, the countries involved in supporting Ukraine began to look for options to reduce the burden on their budgets³ by finding new sources of funding for their assistance and to consider using aggressor state funds to do so. This became all the more important as the US reduced its military and financial support to Ukraine after President Donald Trump came to power. Some EU states and the EU itself began to look all the more for methods on how to compensate for the resulting gap.⁴ At the same time, due to the marginalisation of their role in the negotiations on peace in Ukraine launched by the Trump administration, they recognised that a proper resolution of the CBR assets issue could improve their position and give them a seat at the negotiating table. This also coincided with moves in other countries to confiscate frozen assets, including a cross-party initiative by a group of US senators in March this year. With the cost of rebuilding Ukraine estimated to be at least \$500 billion and possibly \$1 trillion,⁵ the freezing of less than \$300 billion is also seen by some countries as a potentially important source of funds that could be used to lift Ukraine out of war damage. Giving it this money could, at the same time, act as a deterrent for other states to abandon actions that so blatantly violate the foundations of the existing international order. It would appear to be an option particularly worth considering should Russia categorically

¹ "Sanctions" are synonymously referred to in the European Union as "restrictive measures" and this term is also used interchangeably in this report. Similarly, terms such as "freezing," "blocking" and "immobilization" of assets or funds are used synonymously.

² A. Caprile, "Immobilised Russian central bank assets," European Parliamentary Research Service, March 2025, www.europarl.europa.eu.

³ As early as February 2024, estimated spending by the US and its allies on military, financial and humanitarian assistance to Ukraine exceeded \$280 billion, the estimated value of Russian assets, cf. S. Boocker, A. Conner, D. Wessel, "Why do the US and its allies want to seize Russian reserves to aid Ukraine?," Brookings, 11 December 2024, www.brookings.edu.

⁴ L. Oleniak, "Europe wants to use €200 billion of Russian assets as peace guarantee for Ukraine—FT," RBC-Ukraine, 4 March 2025, www.newsukraine.rbc.ua.

⁵ J. Nixey, "Confiscation of immobilised Russian state assets is moral and vital," Chatham House, 1 May 2024, www.chathamhouse.org.

refuse to pay any reparations, shifting the actual burden of reconstruction to Ukraine and the European Union offering it membership.

This report seeks to contribute to the political and expert debate on the future of CBR frozen assets as an important tool for exerting pressure on Russia and supporting Ukraine at the disposal of the G7 countries, and in particular the European Union and its members, where most of these funds are located. The authors intend it to be a guide for policymakers considering new steps with regard to these measures. It analyses the political, legal and economic background to potential decisions, seeking to identify the least controversial solutions from both perspectives. It presents five main scenarios for the use of frozen CBR funds, summarising the proposals put forward so far in this regard, from the most intrusive and unilateral to the least controversial. At the same time, it seeks to shed new light on some of the solutions. The aim of this discussion is to identify which options appear to be the most optimal, i.e. those that are the least controversial from a legal perspective and pose the lowest economic risk.

1. FOREIGN RESERVES OF THE CENTRAL BANK OF RUSSIA AND THEIR SIGNIFICANCE

Grzegorz Kozłowski, Szymon Zaręba

1.1. The Role of Foreign Assets of the Central Bank of Russia and Their Management

It is common practice among central banks to keep some of their assets abroad in widely accepted reserve currencies, such as the U.S. dollar, the euro, the British pound and the Japanese yen. This allows them to diversify the risk associated with holding all assets domestically. It provides access to the most liquid money markets and offers opportunities to invest in safe investment products, such as bonds. It also enables intervention in the currency market in the event of excessive fluctuations in the value of the national currency, facilitates operations to balance the country's balance of payments and ensures the convertibility of the national currency.⁶

Until the beginning of the second decade of the 21st century, Russia pursued a policy of investing a significant portion of its foreign exchange reserves in U.S. assets. These were considered creditworthy and guaranteed a stable (albeit low) income. Given the country's significant holdings of such assets, there was also the potential to influence the issuers' policies. However, a large part of Russian economic doctrine took a critical view of this policy, arguing that the Russian monetary authorities "blindly followed the recommendations of the International Monetary Fund and the U.S. Treasury Department, implementing a policy of issuing the rouble exclusively in exchange for the purchase of foreign currency reserves (mainly U.S. dollars). Consequently, the Russian currency became a substitute for the dollar and the Russian economy became subordinate to the interests of U.S. capital."⁷ Some also argued that purchasing foreign financial instruments, such as bonds, effectively constituted voluntary lending to another country's economy at the expense of funds that could have been allocated to the creditor country's internal development.⁸

The introduction of restrictive measures by the European Union and the United States in 2014 in response to Russia's illegal annexation of Crimea⁹ provided an impetus for Moscow to reform its monetary policy, including the restructuring of its foreign exchange reserves. Sergei Glazyev even wrote that "US and EU sanctions provide a unique opportunity to correct the deformities of the Russian financial system."¹⁰ This influenced a change in Russia's monetary policy, whose primary objective became ensuring the financial security of the state (maintaining liquidity and security of assets held), followed by maximizing the long-term profitability of reserve assets. This prompted a shift in Russia's monetary policy, with the primary goal becoming the financial security of the state (maintaining liquidity and asset security), followed by optimising the long-term profitability of reserve assets.

⁶ Th.C. Baxter, R.B. Toomey, *Legal Issues Incident to Holding Central Bank Assets Abroad*, in: International Monetary Fund, *Current Developments in Monetary and Financial Law*. Vol. 2, Washington, 2003, p. 447.

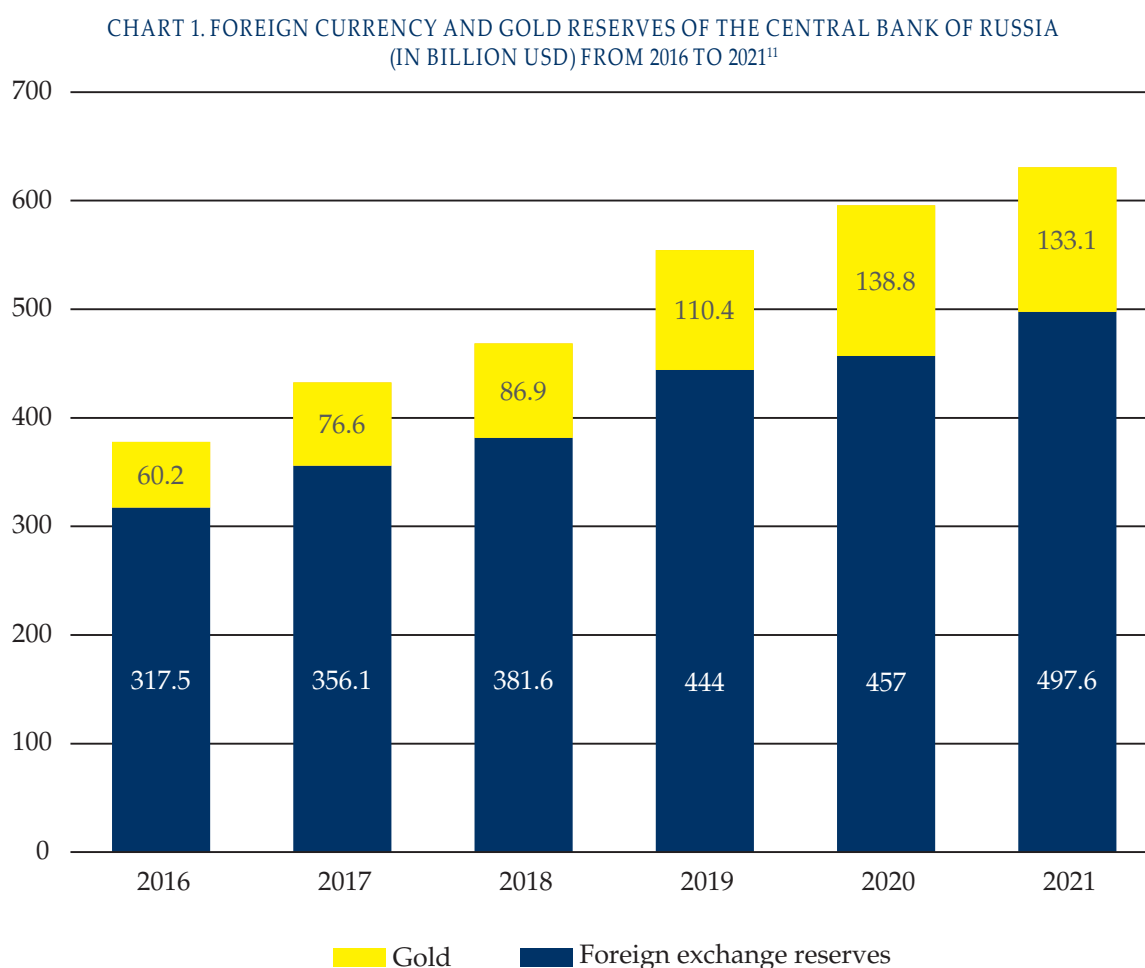
⁷ С.Ю. Глазьев, "Санкции США и политика Банка России: двойной удар по национальной экономике," *Вопросы экономики*, no. 9, 2014, pp. 13–29, <http://institutiones.com> [last accessed 4 February 2025].

⁸ Е.А. Звонова, "Управление международными резервами Банка России и национальная экономическая безопасность," *Национальные интересы: приоритеты и безопасность*, vol. 14, no. 1, 2018, s. 5, <http://institutiones.com> [last accessed 4 February 2025].

⁹ See A. Kuczyńska-Zonik, "Sankcje wobec Rosji," *Athenaeum. Polskie Studia Politologiczne*, vol. 50, 2016, p. 8.

¹⁰ *Ibidem*.

This policy was implemented in several ways. First, Russia pursued a consistent policy of accumulating foreign exchange reserves and gold in preparation for further sanctions from the U.S., the European Union, the United Kingdom and their allies.



Source: information collated from the Central Bank of Russia's annual reports for 2016–2021.

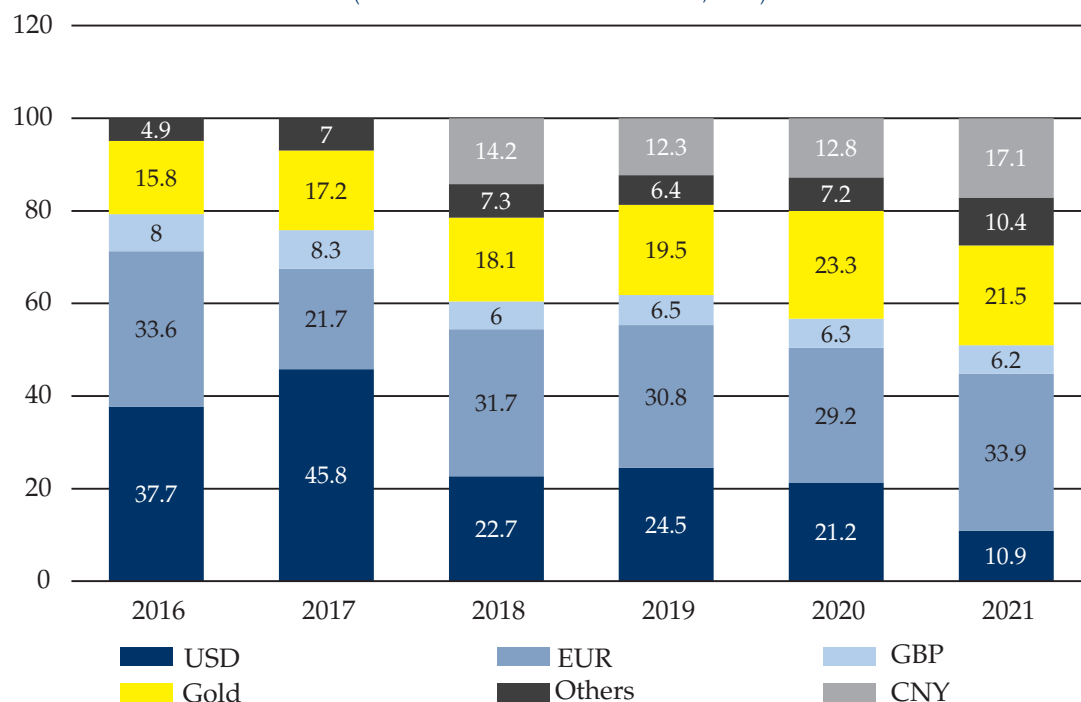
As Chart 1 indicates, the value of Russia's foreign exchange reserves and gold holdings increased steadily from \$377.7 billion in 2016 to \$630.6 billion in 2021. Confidence in gold as a safe asset increased, particularly amid global challenges such as the COVID-19 pandemic in 2020, when it played a stabilising role in the face of high levels of uncertainty in financial markets. The increased proportion of gold in Russia's reserves can also be seen as a measure to increase monetary independence and protect against external financial shocks.

Second, Russia has taken steps to diversify its reserve currency portfolio, reducing the role of the U.S. dollar and increasing the share of the Chinese currency (renminbi). Chart 2 shows the structure of foreign exchange and gold reserves (at market value) from 2016 to 2021,¹² and Chart 3 shows the structure of foreign exchange and gold reserves by country of origin.

¹¹ Two reference periods were used: 2016–2021 and 2022–2023.

¹² Since 2022, the Central Bank of Russia has ceased to provide detailed information on the structure of foreign exchange reserves (as of the end of April 2025).

CHART 2. FOREIGN CURRENCY AND GOLD RESERVES OF THE CENTRAL BANK OF RUSSIA, 2016–2021
(STRUCTURE BY MARKET VALUE, IN %)

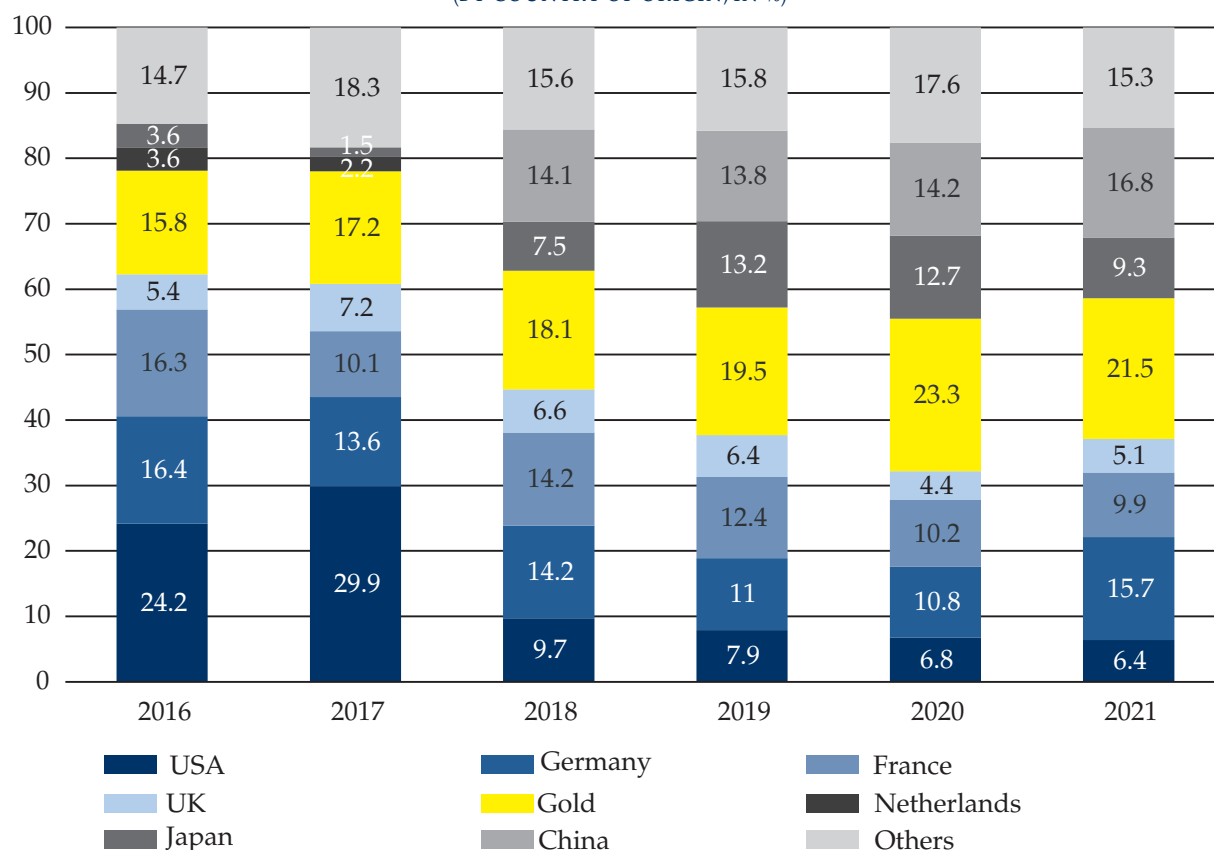


Source: information collated from the Central Bank of Russia's annual reports for 2016–2021.¹³

The share of U.S. dollars in the Bank of Russia's foreign exchange reserves steadily declined, except in 2017, the first year of Donald Trump's presidency. Between 2018 and 2020, it did not exceed 24.5%, with the euro overtaking the U.S. dollar as the dominant currency. By 2021, this figure had fallen to 10.9%, placing the U.S. dollar fourth among Russia's most important foreign exchange assets. Meanwhile, the euro's share of Russia's foreign exchange reserves remained at around 30%.

¹³ Note: for 2016–2017, no separate information is available on the share of the renminbi in the currency structure.

CHART 3. FOREIGN CURRENCY AND GOLD RESERVES OF THE CENTRAL BANK OF RUSSIA, 2016–2021
(BY COUNTRY OF ORIGIN, IN %)



Source: information collated from the Central Bank of Russia's annual reports for 2016–2021.¹⁴

The decline in the U.S. share of foreign exchange reserves is even more evident in Chart 3, which breaks down assets by country of origin. During the reference period, the United States saw its share fall from 24.2% in 2016 to 6.4% in 2021. The CBR consistently sought to diversify its foreign exchange reserves, significantly increasing the proportion of gold and assets from China and other countries. By 2021, these accounted for nearly one-third of reserves. Against this backdrop, the growing significance of the renminbi in Russia's foreign exchange reserves is noteworthy. While the Chinese currency accounted for just 2.2% of reserves in 2017, it has remained at least at 13.8% since 2018. This confirms the intensification of economic and financial cooperation between Russia and China, as well as an increase in the number of international transactions denominated in renminbi. These decisions were motivated by geopolitical considerations, including Russia's desire to become more independent from the influence of major Western countries and to adopt a new, more autonomous monetary policy.

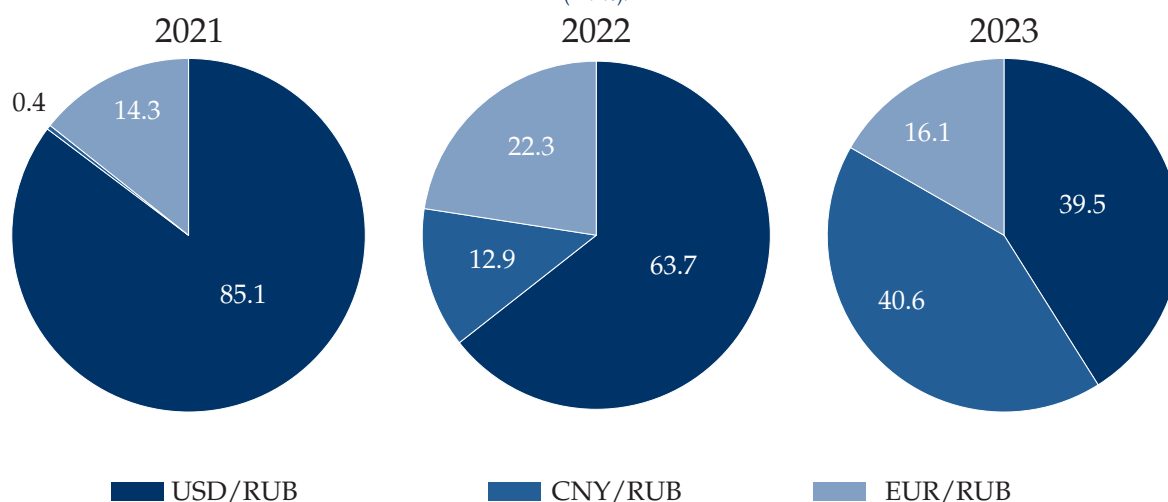
Third, the CBR's monetary policy vector, which takes into account the policies of countries considered hostile by Russia and constitutes a response to Western sanctions, was continued after the start of Russia's full-scale invasion of Ukraine.¹⁵ This was also reflected in a change

¹⁴ Note: no separate information is available for the Netherlands for the period 2018–2021, and no separate information is available for China for the period 2016–2017. Detailed data for "Others" category: 2016: Canada—2.4%, Denmark—1.2%, other—11.1%; 2017: Canada—2.8%; Denmark—1.2%; other—14.3%; 2018: Canada—2.3%; Finland—1.8%; other—10.5%; 2019: Canada—2.1%; other—13.7%; 2020: Austria—2.3%; other—15.3%; 2021: Canada—2.7%; Austria—2.5%; other—10.1%. Data source: Central Bank of Russia, *Annual Reports 2017–2022*, <https://www.cbr.ru>.

¹⁵ Since 2022, the CBR has limited the disclosure of information, including details about the composition of foreign exchange reserves.

in the structure of foreign trade settlements. In 2023, the share of the Russian rouble in export and import settlements with all partner countries (including the share of currencies of friendly countries) increased significantly, while the share of currencies of countries considered unfriendly fell dramatically.¹⁶

CHART 4. PROPORTIONS OF CURRENCY PAIRS TRADED ON THE STOCK EXCHANGE, 2021-2023
(IN %).



Source: own compilation based on Bank of Russia, *Annual Report for 2023*, Moscow, 2024, p. 207, https://www.cbr.ru/Collection/Collection/File/49164/ar_2023_e.pdf [last accessed 3 April 2025].

As Chart 4 shows, the USD/RUB pair accounted for 85.1% of trading in 2021, while other currencies, such as the renminbi (CNY) and the euro (EUR), had a limited or marginal share. By 2023, the USD/RUB ratio had fallen to 39.5%, the renminbi had become dominant with a share of 40.6%, and the euro's share had declined to 16.1%.

The CBR's monetary policy changes were strongly supported by the Russian leadership and had formal backing. President Vladimir Putin highlighted the risks of allocating Central Bank of Russia reserves to Western currency assets, emphasising that "this is an uncertain method"¹⁷ and that "there is growing mistrust of a financial system based on Western reserve currencies." He also expressed support for "expanding settlements in national currencies, creating independent payment systems and establishing production and distribution chains that bypass the channels blocked or compromised by the West."¹⁸

Elvira Nabulina, the President of the CBR, emphasised the importance of diversifying foreign exchange reserves and making the most of available reserves and monetary policy instruments in the event of an economic and financial deterioration.¹⁹ This was also reflected in the Central Bank of Russia's Board of Directors' decisions (including increasing investments in renminbi

¹⁶ Central Bank of Russia, *Annual Report 2023*, p. 206, www.cbr.ru. See also P. Dzierzanowski, M. Przychodniak, *China's Economic Support for Russia Since the Full-Scale Invasion of Ukraine*, PISM Report, Warsaw, 2025, s. 18–19, www.pism.pl.

¹⁷ И. Родин, Путин: международные резервы оказались ненадежны, 4 December 2024, www.finance.rambler.ru.

¹⁸ Посольство Российской Федерации в Республике Австрия, *Выступления президента Российской Федерации Владимира Путина на встрече с руководством Министерства иностранных дел России*, 14 June 2024, www.austria.mid.ru.

¹⁹ Central Bank of Russia, *Выступление Эльвиры Набиуллиной на встрече Ассоциации банков России*, 26 May 2022, www.cbr.ru.

and accumulating gold reserves), as well as in the monetary and credit policy guidelines for 2023–2025.²⁰

The foreign exchange reserve management policy adopted by the Central Bank of Russia has increased the country's economic and financial resilience in the face of tougher Western sanctions since 2022, including the freezing of CBR assets held in Western jurisdictions. By reducing the share of the U.S. dollar and, to a lesser extent, the euro in the overall structure of foreign exchange reserves, the total amount of Russian funds frozen in Western jurisdictions is significantly lower than the amount that could have been frozen under a policy based on the strong position of the U.S. dollar. It should be emphasised that the changes in the structure mainly concern the U.S. and Chinese currencies, and to a lesser extent European currencies. This was one of the signs indicating that the Russian Federation was preparing for a possible escalation of conflict with Western countries.

1.2. Overview of Central Bank of Russia's Assets in 2022

The freezing of the CBR's foreign assets by the G7 and EU countries, as well as smaller economies, at the end of February 2022 (see Chapter 3 for more information) made it extremely difficult for the CBR to formulate monetary policy and support Russian commercial banks,²¹ as it blocked nearly two-thirds of the bank's total foreign assets.²² Along with the impact of other sanctions, freezing the CBR's reserves resulted in significant cash withdrawals from ATMs by the public and a 30% devaluation of the rouble against the dollar within a week. This forced the CBR to raise interest rates drastically from 9.5% to 20%, as well as to impose restrictions on lending in foreign currencies,²³ negatively affecting the Russian economy's lending capacity and overall condition in the long term. On 13 January 2023, the CBR resumed operations aimed at buying and selling foreign currencies on the domestic market. However, due to the impossibility of settling accounts in U.S. dollars and euros, these operations are carried out using the renminbi.

Russian foreign reserves were primarily invested in securities in G7 countries, particularly government bonds, with the remainder held in cash deposits.²⁴ They did not include gold reserves, which were stored domestically.²⁵ In August 2023, the G7 members and Australia estimated the value of Russian foreign exchange reserves frozen in these countries at approximately \$280 billion,²⁶ which was less than half of the CBR's total assets, estimated

²⁰ See Central Bank of Russia, *Основные направления единой государственной денежно-кредитной политики на 2023 год и период 2024 и 2025 годов*, Moscow, 2025, www.cbr.ru.

²¹ M. Dolan, "Russia central bank freeze may hasten 'peak' world FX reserves," Reuters, 2 March 2022, www.reuters.com.

²² S. Vallée, "Reserves freeze sends shivers through Moscow," OMFIF, 8 March 2022, www.omfif.org. The largest Russian reserves outside the G7 were deposited in China. See M. Dolan, *op. cit.* As of early 2021, China's reserves amounted to around 14% of the total. Reserves in countries other than the G7 (including Switzerland) amounted to around 10%, while reserves in international organisations such as the International Monetary Fund amounted to about 5%. See C. Jones, J. Cotterill, "Russia's FX reserves slip from its grasp," *Financial Times*, 27 February 2022, www.ft.com.

²³ D. Wnukowski, "Impact of Western Sanctions on the Russian Economy," *PISM Spotlight*, no. 26/2022, 3 March 2022, www.pism.pl.

²⁴ M.R. Ludwikowski, I. Torterola, F. Sharipov, "Legal challenges of confiscating Russian central bank assets to support Ukraine," Reuters, 1 August 2024, www.reuters.com. According to CBR data from early 2022, third-country securities and deposits accounted for approximately 38% and 30%, respectively, of total CBR reserves (see Central Bank of Russia, *Annual Report 2021*, Moscow, 2022, p. 101, www.cbr.ru).

²⁵ S. Boocker, A. Conner, D. Wessel, *op. cit.*

²⁶ *Ibidem*.

by the bank itself at around \$630 billion just before the aggression in February 2022.²⁷ The fact that the amount of \$280 billion is described as an estimate is due, among other things, to the variable exchange rates in which these assets are denominated and market fluctuations in the valuation of securities, especially bonds. It should be noted that G7 members are reluctant to share information on the value of Russian assets frozen in individual jurisdictions, typically mentioning the total amount immobilised by the entire group.²⁸ Therefore, obtaining information on this subject requires either making estimates or relying on the sparse statements made by state representatives on the matter.

1.3. Assets in the European Union and its Member States

The amount of frozen CBR reserves in the EU is difficult to determine. The most commonly cited total value, as indicated in European Commission information materials, is EUR 210 billion²⁹ (approximately \$227 billion). However, data published in the bank's own report at the turn of 2021/22 indicated that the total value of all its reserves (domestic and foreign) amounted to around \$613 billion. Of the foreign assets broken down by country, Germany accounted for the largest share (15.7%), followed by France (9.9%) and Austria (2.5%). This gives a total of around \$172 billion, which is approximately €151 billion. However, some of the assets located in the EU could also have been included under the heading "Other" (estimated by the CBR at 5.8% in total).³⁰ It should also be noted that the CBR report did not explicitly indicate whether these assets were deposited with institutions in the listed countries or whether they were bonds of these countries.³¹ Publicly-available information on the value of frozen assets in individual EU countries suggests that the latter interpretation is more accurate. Differences between the CBR's data on reserves and the value of frozen assets indicated by member states may also result from Russia transferring some of these assets to other countries in preparation for a full-scale attack on Ukraine.

The vast majority of frozen funds, estimated at €180 billion,³² are held in the Euroclear international securities depository in Belgium.³³ Total Russian reserves deposited in Belgium are estimated at €191 billion (\$208 billion).³⁴ In addition, CBR assets have been identified in the

²⁷ C. Jones, J. Cotterill, *op. cit.*

²⁸ However, the next two subsections aim to provide rough estimates or indicate where publicly-available estimates or information on their amount can be found.

²⁹ Council of the European Union, *EU sanctions against Russia explained*, www.consilium.europa.eu.

³⁰ Central Bank of Russia, *Annual Report 2021*, *op. cit.*, p. 102, www.cbr.ru; G.C. Hufbauer, J.J. Schott, "The United States should seize Russian assets for Ukraine's reconstruction," PIIE, 21 April 2022, www.pii.com.

³¹ This may be indicated by a mention in the Central Bank of Russia, *Annual Report 2021*, *op. cit.*, p. 101, www.cbr.ru. Still, most sources uncritically identify the countries mentioned in the report as the locations of the funds. For example, see: I. Chernohorenko, "Seizing Russian Assets to Compensate for Human Rights Violations in Ukraine: Navigating the Legal Labyrinth," *European Papers*, vol. 8, no. 3, 2023, pp. 1067–1075, p. 1068, www.europeanpapers.eu; G.C. Hufbauer, J.J. Schott, *op. cit.*

³² N. Véron, *The European Union should do better than confiscate Russia's reserve money*, Bruegel, 20 December 2023, www.bruegel.org. According to information from December 2023, it was possible to find information in May 2024 that reserves in Euroclear amounted to only €159 billion, see I. Wiśniewska, "The EU's decision to use the profits generated by frozen Russian assets," *OSW Analyses*, 24 May 2024, www.osw.waw.pl.

³³ Euroclear is one of the three largest institutions of its kind in the world. It holds assets totalling around €37.6 trillion, so Russia's assets pale in comparison. See M. Schieritz, "191 Milliarden Euro. Die EU hat russisches Vermögen eingefroren. Kann sie mit dem Geld die Ukraine unterstützen?," *Zeit Online*, 11 March 2024, www.zeit.de.

³⁴ M. Demertzis, "Bank of Russia's immobilised assets: what happens next?," Bruegel, 9 May 2023, www.bruegel.org.

Clearstream international securities depository in Luxembourg.³⁵ Estimates of their size vary widely, ranging from several billion euros³⁶ to around €20 billion.³⁷ Furthermore, information from mid-2024 in the public domain states that France froze approximately €19 billion (\$21 billion) and Germany around €210 million (\$227 million).³⁸ However, it should be noted that, in March 2022, the French Minister of the Economy and Finance, Bruno Le Maire, announced that France had frozen €22 billion (\$23.8 billion) of CBR reserves,³⁹ and this figure seems more credible.

The information presented allows the conclusion that the value of CBR assets frozen in the EU is at least EUR€ 210 billion (\$227 billion), possibly reaching around €233 billion (\$248 billion). According to a report prepared for the Italian parliament and published in March 2025, their total value could be as high as €258 billion⁴⁰ (\$277.6 billion). The location of the remaining €25 billion has not been reported in the media but it seems unlikely that such a large sum would remain undisclosed. It is more likely that the report in question incorrectly included the assets of individuals subject to sanctions following Russia's full-scale aggression against Ukraine.

1.4. Assets Deposited with Other G7 Members

Regarding assets accumulated in Japan, estimates provided by the Japanese newspaper Nihon Keizai Shimbun on 28 February 2022 indicated that frozen funds in the country amounted to around 4–5 trillion yen⁴¹ (between \$34.6 and \$43.2 billion at the exchange rate on that day). According to other Japanese sources, this figure was consistent with Russia's declared data on the size of its foreign exchange reserves in mid-2021 and the percentage of yen-denominated funds in those reserves. However, they leaned more towards the lower end of the range, estimating the frozen funds to be around 3.8 trillion yen⁴² (approximately \$32.8 billion at the end of February 2022). They emphasised that most of these were Japanese bonds.⁴³

³⁵ Clearstream and Euroclear are the only two international central securities depositories authorised by the EU to settle transactions in international securities, such as eurobonds, see European Central Securities Depositories Association, "Frequently Asked Questions," <https://ecdsa.eu/faq>.

³⁶ E.P. Dalesio, "Luxembourg sees minor role in taxing Russia's money to help Kiev," *Luxembourg Times*, 19 October 2023, www.luxtimes.lu; N. Véron, *op. cit.*

³⁷ This is what the reference in the analysis of F. Petrangeli, "The Russian Central Bank's Frozen Assets: A 'Godsend' for Kyiv's Military Assistance?," IAI Istituto Affari Internazionali, www.iai.it, would suggest. See also D. Carretta, C. Spillmann, "La grande guerra in Europa sul tesoro russo congelato," *Start Magazine*, 12 March 2025 r., www.startmag.it. Estimates of as much as €50 billion have been made, but these seem less credible, see M. Patoka, "At arm's length: How Ukraine seeks to retrieve frozen Russian assets," Svidomi, www.svidomi.in.ua.

³⁸ S. Bagouri, "Western Opportunism. The Risks of Funding Ukraine Through Frozen Russian Assets," *Future of Advanced Research & Studies*, 19 August 2024, www.futureuae.com. As for France and the sum of €19 billion see also B.W. Setser, M. Weilandt, "Estimating Future Interest Income From Russia's Frozen Reserves," *Council on Foreign Relations*, 11 June 2024, www.cfr.org.

³⁹ "La France a gelé plus de 22 milliards d'euros d'actifs de la Banque de Russie," *Euronews*, 20 March 2022, www.fr.euronews.com.

⁴⁰ Senato della Repubblica, Camera dei deputati, "Documentazione per'Assemblea. Consiglio europeo Bruxelles, 20 e 21 marzo 2025," Dossier n. 114, s. 10, www.documenti.camera.it. See also G. Lory, V. Genovese, "European Parliament mulls seizure of Russian assets to help Ukraine," *Euronews*, 12 March 2025, www.euronews.com.

⁴¹ "BOJ freezes Russia's foreign exchange reserves 4-5 trillion yen as of 21 years," *Nikkei*, 28 February 2022, www.jbpress.ismedia.jp. And from approximately \$26.5 to \$33.1 billion \$ at the end of March 2025 due to the depreciation of the yen against the dollar. Reuters estimated the funds held by the CBR in Japan at \$36 billion, see E. Fabrichnaya, G. Faulconbridge, "What and where are Russia's \$300 billion in reserves frozen in the West?," *Reuters*, 28 December 2023, www.reuters.com.

⁴² "BOJ freezes Russia's..." *op. cit.*

⁴³ *Ibidem*. In this context, the data on the Statista website suggesting that Japan has frozen assets equivalent to around \$58 billion seems unbelievable, see "Value of assets of the Bank of Russia frozen due to sanctions due to the war in Ukraine as of March 2022, by country," *Statista*, www.statista.com.

Similar calculations for Canada suggest that CBR assets located and most probably frozen in the country, could amount to approximately \$17.6 billion (around CAD 25.2 billion at the exchange rate on that day).⁴⁴ Publicly-available sources provide different estimates. In December 2023, it was speculated that Canada had frozen Russian central bank assets worth around \$19 billion,⁴⁵ but this estimate was based on Russian data regarding the amount of funds located in Canada at the beginning of 2022. In March 2025, Canadian newspapers reported estimates ranging from \$17.2 billion⁴⁶ to \$18.8 billion.⁴⁷ According to media reports, these assets consisted of bonds, other securities, and cash deposits.⁴⁸

As regards the United Kingdom, in November 2022 experts commented that there was a lack of clarity regarding the scale of CBR assets frozen in the country.⁴⁹ Lord Alton, a member of the House of Lords, also received no clear answer to his question addressed to the British government in December 2023.⁵⁰ In December 2023, Reuters estimated the value of these assets to be the equivalent of approximately \$37 billion, based on Russian data from early 2022. However, the latest report by the British Office of Financial Sanctions Implementation (OFSI), published on 21 March 2025 and covering activities in 2023–2024, indicates that the UK has frozen Russian assets worth £25 billion (approximately \$31.1 billion).⁵¹

Opinions on the amount of CBR assets located in the U.S. have remained consistent since the beginning.⁵² Virtually all sources have estimated the size of Russian reserves in the U.S. to be \$4–5 billion.⁵³ According to information published in September 2023 by an American internet portal, citing sources within the U.S. administration, the United States blocked CBR funds totalling \$5.06 billion,⁵⁴ while materials published by the U.S. Congress in April 2024 indicated an amount in the range of \$4–5 billion.⁵⁵ Current press reports also estimate the size of these reserves at around \$5 billion.⁵⁶ These estimates are generally consistent with statements by

⁴⁴ Based on “Bank of Russia Foreign Exchange and Gold Asset Management Report, no. 1, Moscow, 2022, p. 5, www.cbr.ru.

⁴⁵ E. Fabrichnaya, G. Faulconbridge, *op. cit.*

⁴⁶ CAD 22 billion, see D. Dasko, A. Gasch Burnett, “Opinion: Canada can send a clear message to Russia by making this one bold move,” *Toronto Star*, 4 March 2025, www.thestar.com.

⁴⁷ CAD 24 billion, see D. Robertson, “Canada’s plans to fuel Ukraine’s war effort with Russian cash, explained,” *Toronto City News*, 1 March 2025, www.toronto.citynews.ca.

⁴⁸ *Ibidem*.

⁴⁹ J. Cameron-Chileshe, K. Beioley, “UK freeze on Russian assets hits £18bn as part of Ukraine sanctions,” *Financial Times*, 10 November 2022, www.ft.com.

⁵⁰ UK Parliament, “Assets: Russia. Question for Treasury UIN HL904, tabled on 6 December 2023,” reply by C. Vere to an interpellation on 18 December 2023, www.questions-statements.parliament.uk.

⁵¹ “UK sanctions freeze £25bn of Russian assets,” press release, UK Parliament, 21 March 2025, www.gov.uk; HM Treasury Office of Financial Sanctions Implementation, *OFSI Annual Review 2023–24. Engage, Enhance, Enforce*, March 2025, pp. 13 and 24, www.assets.publishing.service.gov.uk. The information contained therein does not make it entirely clear whether this amount also includes the assets of individuals and companies. Confirmation that these are the assets of only the central bank can be found here: UK Parliament, *War in Ukraine: Third Anniversary*, Hansard, vol. 762, minutes of the debate on 27 February 2025, www.hansard.parliament.uk and M. Jankowicz, “As Europe mobilizes behind Ukraine, it’s sitting on a \$218 billion ace card—and it’s being urged to play it,” *Business Insider*, 3 March 2025, www.businessinsider.com.

⁵² In this context, the *New York Times*’ estimate of around \$100 billion is completely unbelievable, see L.H. Tribe, J. Lewin, “\$100 Billion. Russia’s Treasure in the U.S. Should Be Turned Against Putin,” *New York Times*, 15 April 2022, www.nytimes.com. Arguably, it also includes private assets.

⁵³ E. Fabrichnaya, G. Faulconbridge, *op. cit.*

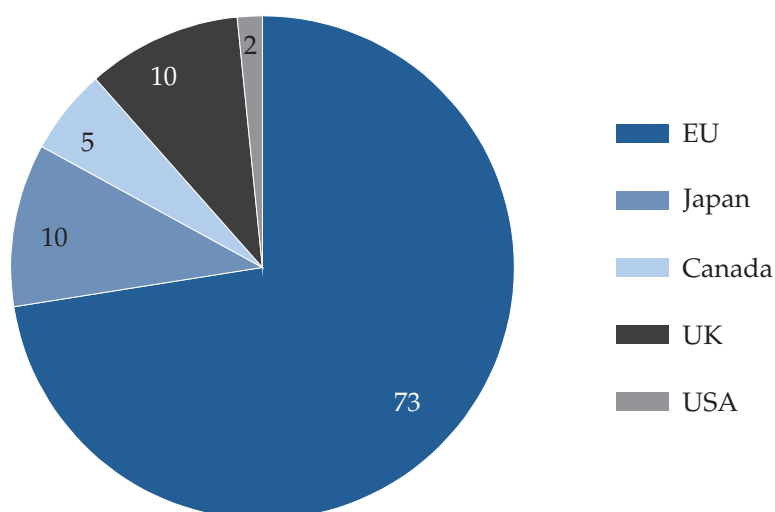
⁵⁴ S. Boocker, A. Conner, D. Wessel, *op. cit.*, in: H. Nichols, “Scoop: \$5 billion in Russian assets found in U.S. by global task force,” *Axios*, 7 September 2023, www.axios.com.

⁵⁵ Congressional Research Service, “U.S. Sanctions on Russia: Legal Authorities and Related Actions,” 26 April 2024, www.congress.gov.

⁵⁶ G. Sorgi, “EU eyes €200B secret weapon as Trump dominates Ukraine peace talks,” *Politico*, 25 February 2025, www.politico.eu.

Russian politicians. For example, in April 2024, Vyacheslav Volodin, the Chairman of the Russian State Duma (the lower house of parliament), stated that the CBR's reserves in the US amounted to only about \$5–6 billion.⁵⁷

CHART 5. APPROXIMATE PROPORTIONS OF CBR ASSETS DEPOSITED WITH INDIVIDUAL G7 MEMBERS
(IN %)



Source: own calculations based on data contained in the chapter. For the EU, U.S. and UK, official sources were used. For Japan and Canada, the lowest estimates were used.

⁵⁷ "Russia warns Europe: if you take our assets, we have a response that will hurt," Swissinfo.ch, 23 April 2024, www.swissinfo.ch.

2. LEGAL RESTRICTIONS ON THE DISPOSAL OF CBR ASSETS

Stefania Kolarz

The discussion in the G7 regarding the freezing and the future of CBR assets—including their expropriation has, from the outset, taken place against the backdrop of the legal restrictions attached to their disposability. Under international law, the protection afforded to the assets of states is fragmented and derived partly from customary law and partly from international agreements. It is no different with central bank assets; from a legal perspective CBR assets are protected as state property.

2.1. State Immunity

State immunity protects state property, including the assets of its central bank. In practice, this means their inviolability and therefore at least the prohibition of expropriation, although the question of the scope of prohibited activities remains vague. However, most international law experts agree that their mere freezing (immobilisation) does not violate immunity. However, the assets of a sanctioned state are protected by immunity even if they are held by the sanctioning state.⁵⁸ In 2012 the International Court of Justice (ICJ) in *Germany v. Italy* even stated that the sovereign immunities of states are not waived by violations of *ius cogens* norms,⁵⁹ i.e. norms such as the prohibition of international crimes or aggression (as is the case in the war in Ukraine). Thus, any judicial decisions made at the national level in violation of them remain unenforceable.⁶⁰ State immunity thus provides Russian assets with strong protection.

This protection derives from customary international law, the norms of which are partly codified in the 2004 UN Convention on Jurisdictional Immunities of States and their Property.⁶¹ The UN Convention does not explicitly provide for an exception that would allow the seizure of CBR assets in the circumstances at hand,⁶² as Russia is unlikely to waive its immunity (cf. Article 7 of the Convention). The situations discussed in its Part III in which states are not protected by it, on the other hand, do not concern expropriation in order to compel a state to comply with international law or to support a state aggrieved by its actions (exceptions apply, for example, to commercial transactions,⁶³ labour disputes). Moreover, the Convention explicitly indicates that immunity protects states from coercive measures against them, including seizure of property before judgment (Article 18).

An opportunity to circumvent these difficulties is provided by divergent interpretations of the scope of state protection guaranteed by immunity. Two dominant lines of understanding

⁵⁸ D. Franchini, "Ukraine Symposium—Seizure of Russian State Assets: State Immunity and Countermeasures," Articles of War, Lieber Institute West Point, 8 March 2023, www.lieber.westpoint.edu.

⁵⁹ I.e. according to Article 53 of the Vienna Convention on the Law of Treaties, an imperative norm of universal international law—accepted and recognised by the international community of states as a whole as a norm from which no derogation is permitted and which can only be modified by a subsequent norm of international law conduct of the same nature. Cf. also T. Khutor, A. Mikheiev, "The Possible Scenarios of Seizure of Russian Sovereign Assets," Institute of Legislative Ideas (izi.institute), p. 4.

⁶⁰ *Ibidem*, p. 13.

⁶¹ "United Nations Convention on Jurisdictional Immunities of States and Their Property," 2004. It is awaiting entry into force, but the norms contained therein are just in force as customary law. In further footnotes as "United Nations Convention on immunities."

⁶² M. Mills, T. Poston, O.A. Hathaway, "How to Make Russia Pay to Rebuild Ukraine," Just Security, 20 February 2024, www.justsecurity.org.

⁶³ Article 21(1)(c) of the UN Convention on Immunities explicitly indicates that the property of a central state bank is not considered to be used for such purposes.

of it are emerging on this issue. According to the first interpretation—which is broader and therefore more problematic from the perspective of states calling for the seizure of CBR assets—immunity generally protects against the use of coercive measures against the state by other states (in accordance with the principle of the sovereign equality of states), and therefore also legislative or executive (administrative) measures.⁶⁴ By contrast, in narrower terms, referring to the aforementioned UN Conventions, immunities cover only judicial proceedings (such as are referred to, for example, in Articles 5 and 6 of the UN Conventions).⁶⁵ In practice, this means that CBR assets are protected against expropriation by this route only, and this is an interpretation that is favourable from the perspective of G7 members, as it allows for the confiscation of Russian funds by means other than judicially. A strict understanding of the scope of state immunity is also supported by the ICJ's decision in *Germany v. Italy*, in which the court stated that the rules on immunities are procedural in nature and are only intended to indicate whether national courts can exercise jurisdiction over another state.⁶⁶ Although the activities of other state organs were outside the scope of the dispute, it seems that the tribunal would not have overlooked such an important aspect. Particularly as, later in the judgment, it pointed to “immunity from jurisdiction (understood *stricto sensu* as the right of a State not to be subjected to the judicial procedures of another State)” in the context of distinguishing it from immunity from enforcement.⁶⁷ The two approaches are reconciled by the interpretation proposed by the UN International Law Commission, which indicates that judicial proceedings should be understood as including not only the actions of courts, but also of other organs of the state, related to judicial proceedings. Indeed, it is only the courts that adjudicate on the illegality and culpability of the violator, which is the basis for the expropriation decision—even if it is itself an administrative act.⁶⁸ In this view, even the actions of state organs other than the courts may violate immunity if they are related to judicial proceedings.⁶⁹

Analogous solutions to the UN Convention are provided by the provisions of the 1972 European Convention on the Immunity of States (Basel Convention), which has entered into force, but of the countries in question has only been ratified by Austria, Belgium, Cyprus, Germany, Luxembourg, the Netherlands and, from outside the EU, the UK.⁷⁰ Nevertheless, the interpretation of its provisions is more unambiguous. The commentary to the European Convention indicates that the protection guaranteed therein applies only to judicial proceedings, it being irrelevant whether these are before ordinary or administrative courts, and does not apply to the actions of other authorities of states.⁷¹ The Convention does not guarantee any rights to states that are not party to it, and therefore to Russia, but it provides additional guidance on how the scope of state immunity should be interpreted in international law. States seeking to expropriate Russia through domestic means without violating its immunity would therefore

⁶⁴ D. Franchini, *op. cit.*

⁶⁵ Article 5 speaks of the immunity of the state and its property in the context of the jurisdiction of the courts of foreign states; Article 6 indicates that states should not conduct judicial proceedings against another state, and Article 8 deals with the effects of judicial proceedings. These are only examples, and references to judicial proceedings can be found throughout the Act.

⁶⁶ International Court of Justice, “Jurisdictional Immunities of the State (*Germany v. Italy: Greece intervening*),” judgment of 3 February 2012, I.C.J. Reports 2012, p. 99, para. 93.

⁶⁷ *Ibidem*, p. 99, para. 113, emphasis added.

⁶⁸ M. Mills, T. Poston, O.A. Hathaway, *op. cit.*

⁶⁹ European Parliament, “Legal options for confiscation of Russian state assets to support the reconstruction of Ukraine,” European Parliamentary Research Service Study, February 2024, p. 12.

⁷⁰ Council of Europe, “Chart of signatures and ratifications of Treaty 074,” www.coe.int.

⁷¹ Council of Europe, “Explanatory Report to the European Convention on State Immunity,” Basel 16 May 1972, para. 8, www.rm.coe.int.

have to act out of court to increase their chances of acting in accordance with international law, and therefore expropriate, for example, on the basis of a government decision or law.

Due to state immunity, actions before national courts are also ineffective, or at least will not find acceptance outside the states that would carry out the expropriation. This is argued by the conclusions of the ICJ case *Germany v. Italy*.⁷² The ICJ declared Italy's practice of allowing civil actions against Germany in Italian courts and the possibility of enforcing judgments rendered in order to obtain reparations by Nazi victims to be incompatible with international law. The ICJ was not persuaded to accept the abrogation of German immunity by Italian courts by the fact that the Third Reich had violated norms of *ius cogens* (by committing, inter alia, war crimes) or by Italy's use of this solution as a last resort in the absence of other avenues for victims to obtain compensation from Germany.

The possibility for Russia to appeal to the ICJ against an expropriation carried out on the basis of domestic law in violation of its immunity is also a potential problem, regardless of the basis of the confiscation carried out—a judicial decision, an executive decision or a newly adopted law. Due to the aforementioned divergence in interpretation as to the scope of state immunity, it would then be possible to challenge the confiscation of CBR assets, even if carried out without the involvement of domestic courts. Such a decision by the ICJ could make it more difficult for Ukraine to enforce damages against Russia in the pending ICJ proceedings and possible others initiated in the future. However, it would be difficult for Russia to sue the expropriating states on formal grounds. In order to do so, it would have to either obtain the consent of the state concerned to refer the case to the Court, or agree itself to the ICJ's compulsory jurisdiction over it in similar cases. Alternatively, it could also seek the support of the UN General Assembly for a request for an advisory opinion from the ICJ. The realisation of either scenario is very unrealistic in the present circumstances—in the first case because of the almost certain reluctance of the expropriating states and Russia to submit to the judgment of the ICJ on such a problematic issue, in the second case because of the difficulty of obtaining the support of a broad range of states.

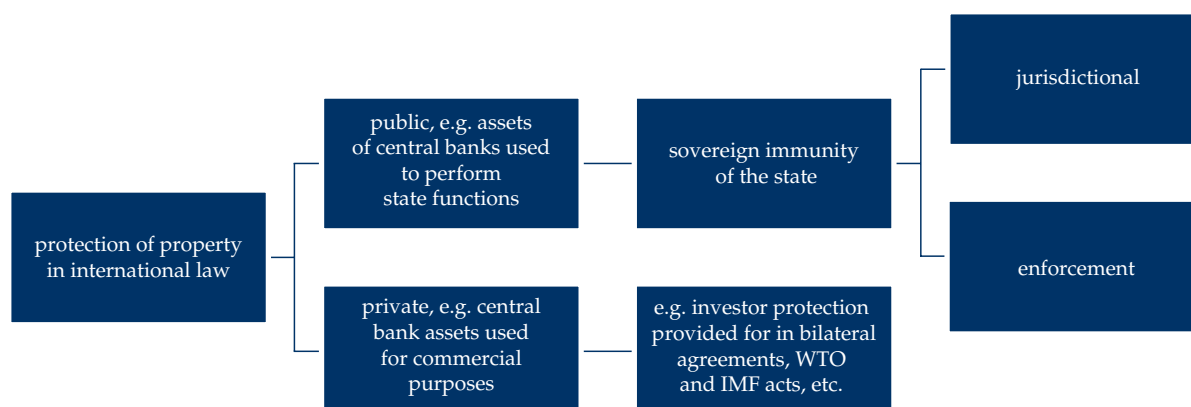
In the context of the enjoyment of the protection guaranteed by state immunity, attention must also be paid to the scope of central bank activities, which may sometimes concern not only matters related to the exercise of state functions (protected by immunity), but also others, such as commercial ones. State immunity does not extend to the latter,⁷³ but the exact delimitation of activities protected by immunity or not is done at the level of specific cases. Moreover, states also have immunity from enforcement, i.e. from coercive measures to deliver a judgment. Even in cases in which a state is not protected by judicial immunity (e.g. commercial disputes), it may shield itself with enforcement immunity in order to avoid the execution of a judgment against it.⁷⁴

⁷² International Court of Justice, "Jurisdictional Immunities of the State (*Germany v. Italy: Greece intervening*)," judgment of 3 February 2012, I.C.J. Reports 2012, p. 99.

⁷³ This is stated, inter alia, in Article 10 of the UN Convention on Immunities.

⁷⁴ P. Butchard, "Sanctions, international law and seizing Russian assets," Research Briefing, House of Commons Library, 7 November 2024, pp. 43–44.

DIAGRAM 1 PROTECTION OF THE PROPERTY OF CENTRAL BANKS' ASSETS IN INTERNATIONAL LAW



Source: PISM's own compilation.

2.2. Standards of International Organisations

Restrictions on the disposal of CBR assets by the G7 countries may arise from rules adopted by international organisations of which they are members, but these guarantee Russian public assets a lower level of protection than the immunity Russia enjoys. At the UN level, this is the Declaration of Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the UN Charter (General Assembly Resolution 2625(XXV) of 24 October 1970 codifying the norms of customary international law). It prohibits states from using or encouraging others to use economic coercion to obtain subordination from another state in the exercise of its sovereign rights or to receive any benefit from it. However, while the first part of the sentence would apply in the present case, the second part—i.e. the purpose of such measures—is not part of the resolution's prohibition of interference in a state's internal affairs and is therefore not an obstacle to expropriation. Indeed, under this view, the expropriating states would not be restricting Russia's sovereign rights other than by seeking to enforce compliance with international law rather than to obtain benefits.

In the case of the EU, the application of sanctions to the CBR is not precedent. Restrictions such as an asset freeze have already been imposed on, for example, the Syrian Central Bank in connection with its financing of the activities of the Bashar al-Assad regime.⁷⁵ The basis for the adoption of sanctions in EU law is Article 29 of the Treaty on European Union, which vaguely indicates that "the Council shall adopt decisions which shall define the approach of the Union to a particular matter." In contrast, the Treaty on the Functioning of the EU further specifies that such a decision may provide for the interruption or reduction, in whole or in part, of economic and financial relations with a third country.⁷⁶ Although, in theory, such a broad basis for action could be read as granting the Council competence also to expropriate the CBR's assets, its ability to do so remains limited, as a decision to impose new sanctions, such as expropriation, requires the unanimous consent of states. For the time being, reaching a consensus in this regard is doubtful, among other reasons, due to the aforementioned need

⁷⁵ C.V. Gortsos, "The restrictive measures imposed by the European Union on the Central Bank of the Russian Federation and some considerations relating to financial stability," www.ebi-europa.eu.

⁷⁶ Article 215(1) of the Treaty on the Functioning of the European Union.

to respect the rules of international law not only by the Union itself,⁷⁷ but also by the member states (as particularly emphasised by Germany). Moreover, even if states would manage to reach an agreement on this issue, another problem is also the possibility of challenging the legality of the decision to impose such sanctions before the Court of Justice of the EU⁷⁸ (the court confirmed the admissibility of complaints by states against sanctions imposed in 2021 in the case *Venezuela v. Council*).⁷⁹ The outcome of such a complaint would be uncertain insofar as EU law does not explicitly contain standards protecting the assets of central banks like the CBR from expropriation, so it would require linking a breach of international law (state immunity) to a breach of EU treaties.

Other organisations primarily emphasise property and investment protection. In this context, the rules adopted by the World Trade Organisation (WTO), the International Monetary Fund (IMF) and the Council of Europe deserve particular attention.

In the case of the WTO, to which all members of the G7 (including the EU) belong, the protection of property rights is crucial, but the guarantees apply primarily to assets used for commercial purposes. Noteworthy, however, are two principles guiding the WTO: non-discrimination (the prohibition of discrimination against trading partners by states, which is embodied, inter alia, by the principle of most favoured nation) and predictability and transparency, which protects foreign companies, investors but, importantly, also governments from the arbitrary imposition of trade barriers.⁸⁰ Article XXI of the General Agreement on Tariffs and Trade (GATT) and, by analogy, Article XIV bis of the General Agreement on Trade in Services (GATS) indicate that their provisions do not prevent states from taking measures necessary to protect their essential security interests “in time of war or other emergency in international relations,” nor do they prevent them from taking action to implement their obligations under the UN Security Council to maintain international peace and security (cf. subsection on countermeasures).⁸¹ WTO standards thus protect central bank assets used in business activities, but this protection is not absolute and may be limited. In this view, expropriation of CBRs would therefore not violate WTO standards.

In the case of the International Monetary Fund (IMF), by contrast, Article VIII, Section 1(a) of the IMF Agreement prohibits its members from imposing restrictions on the making of payments and remittances for current international transactions without IMF approval.⁸² In practice, however, the Fund has never yet blocked such an action. A 1952 decision of its Executive Board takes the pragmatic approach that the IMF should not become a forum for deciding security issues and therefore only expects members to give notice of restrictions to be imposed (before they are applied or, if this is not possible, no later than 30 days).⁸³ Also, the IMF’s rules therefore do not oppose the expropriation of central bank assets.

⁷⁷ Cf. Article 3(5) of the Treaty on European Union, according to which “[i]n its relations with the wider world, the Union [...] shall contribute [...] to the strict observance and the development of international law, in particular the principles of the United Nations Charter.”

⁷⁸ Cf. Article 24 of the Treaty on European Union in conjunction with Articles 275 and 263 of the Treaty on the Functioning of the European Union.

⁷⁹ Court of Justice of the European Union, Judgment of the Court (Grand Chamber) of 22 June 2021, Case C-872/19 P, www.eur-lex.europa.eu.

⁸⁰ World Trade Organisation, “What we stand for,” www.wto.org.

⁸¹ “General Agreement on Tariffs and Trade (GATT 1947),” as amended, www.wto.org.

⁸² “International Monetary Fund Agreement,” signed at Bretton Woods on 22 July 1944.

⁸³ P. Butchard, *op. cit.*, p. 47.

Nor can Russia use the Council of Europe regulations to protect its assets. First of all, it cannot attempt to bring actions against possible violations of its property rights—the protection provided by the European Convention on Human Rights (ECHR) does not extend to states, and Russia was excluded from the organisation in March 2022,⁸⁴ although this does not preclude its citizens and Russian entities from bringing cases against the actions of states bound by the ECHR.

2.3. Contractual Obligations

Restrictions on the assets of state-owned banks may also arise from other obligations of states under international law, primarily the protection of their property rights guaranteed by bilateral agreements, e.g. on cooperation or on the promotion and mutual protection of investments (so-called BITs). This requires, however, that such measures qualify as not serving state tasks, but business activities—in which case the state central bank is treated as an enterprise. Such a possibility was allowed by the ICJ in the case of *Iran v. US*. The ICJ examined the actions of the US, which blocked the assets of the Iranian government and financial institutions, including the state-owned bank, on its territory under the Foreign Sovereign Immunities Act (FSIA) and the Terrorism Risk Insurance Act (TRIA), which prevent a state deemed to be a sponsor of terrorism from invoking its immunity in certain US proceedings.⁸⁵ Although in the case of the Iranian Central Bank, its commercial activities were too marginal to be considered a protected enterprise from expropriation under the 1955 Treaty of Friendship, Economic Relations and Consular Rights,⁸⁶ the complaint filed by Iran provided an opportunity for the tribunal to make a general finding that the provisions of the two acts violate the treaty as their application amounts to an expropriation without compensation.⁸⁷

At the same time, most EU countries (and among the G7 members also Japan, Canada and the UK) are bound to Russia by bilateral agreements on the promotion and mutual protection of investments (so-called BITs, *bilateral investment treaties*). Exceptions are: Estonia, Ireland, Latvia, Malta, which have no such agreements at all, as well as Croatia, Cyprus, Poland and Portugal, Slovenia, and, from outside the EU, the US with which such agreements have been signed but have not entered into force.⁸⁸ In addition, Poland in spring 2022 withdrew its consent to be bound by the agreement. Although the official reason was that the text of the agreement negotiated more than three decades earlier was outdated,⁸⁹ the timing of the withdrawal of consent suggests that this was one of Poland's actions to emphasise its intention to isolate the aggressor state.

Although the BITs differ in the details of the definition of an investor, any legal entity established under the laws of a contracting State that is allowed to invest in the other contracting State in accordance with the BIT is mostly qualified as such. The scopes of protection provided for in these agreements are even more comparable; they provide, *inter alia*, for mutual protection

⁸⁴ Cf. Articles 1 and 33 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

⁸⁵ For more information on FSIA and TRIA, see Chapter 4.

⁸⁶ "Treaty of Amity, Economic Relations, and Consular Rights Between the United States of America and Iran," www.state.gov.

⁸⁷ International Court of Justice, "Certain Iranian Assets (Islamic Republic of Iran v. United States of America), Preliminary Objections," Judgment of 13 February 2019, I.C.J. Reports 2019, p. 7, www.icj-cij.org.

⁸⁸ United Nations Conference on Trade and Development (UNCTAD), "International Investment Agreements Navigator. Russian Federation," www.investmentpolicy.unctad.org.

⁸⁹ K. Sobczak, "Poland breaks agreement with Russia on investment protection," *Prawo.pl*, 29 March 2022, www.prawo.pl.

of investments, fair and equitable treatment and, above all, the prohibition of expropriation, nationalisation and the application of equivalent measures to the investments made, which is, however, not absolute. It is possible to take such measures if they are taken in the public interest in the manner prescribed by law, are not discriminatory and are accompanied by the payment of prompt, adequate and effective compensation. This is a minimum of protection, as sometimes the wording of the provisions differs, e.g. the BIT between Russia and Italy, unlike others, specifies that it is both *de jure* and *de facto* expropriation, while the France-Russia BIT emphasises the applicability not only within the territory of the states, but also in the maritime zones.⁹⁰ Moreover, the parties undertake to allow investors to freely transfer investment-related payments, including assets and proceeds. In the absence of a BIT, the minimum protection is set by customary international law, which indicates that there can be no expropriation without adequate compensation.⁹¹

If the CBR is considered an investor, at least some BITs could become a tool to protect its assets from expropriation, but this would require the bank to demonstrate that it does enough business.⁹² Therefore, the risk of a breach of the BITs should be assessed as very low.

2.4. National Law of Individual Countries

Restrictions on the disposal of CBR assets by the states in which they are located derive primarily from the principles of international law and the obligations arising therefrom, as discussed earlier, but additional guarantees for the protection of such assets may be adopted under national law. They may take different forms, but as a general rule, these are—by analogy with solutions operating at the international level—guarantees of protection against expropriation or clarification of the scope of immunities in situations where actions may be brought against states before national courts (e.g. in the case of labour disputes, compensation claims).

The right to property and protection against expropriation are mostly already guaranteed at the constitutional level, but the protections provided for therein mainly concern the protection of private property (e.g. constitutions of Belgium, Japan),⁹³ which cannot be invoked by the CBR. In addition, few countries have adopted national legislation on state immunity—of the G7 members these are: Japan, Canada, the US and the UK⁹⁴—while focusing on different aspects related to the protection provided by this immunity and containing limitations. For example, Canada's State Immunity Act of 1985 provides for only limited exceptions to the application of state immunity in legal proceedings in relation to, for example, support for

⁹⁰ "Décret no 91-1062 du 14 octobre 1991 portant publication de l'accord entre le Gouvernement de la République française et le Gouvernement de l'Union des Républiques socialistes soviétiques sur l'encouragement et la protection réciproques des investissements (ensemble un échange de lettres interprétatif), fait à Paris le 4 juillet 1989," www.investmentpolicy.unctad.org.

⁹¹ European Parliament, "Legal options...", *op. cit.*, p. 21.

⁹² *Ibidem*, pp. 21–22.

⁹³ For example, Article 42 of the Italian Constitution distinguishes between public and private property, but focuses on protecting the former. In contrast, Article 29 of the Japanese Constitution indicates that the right to property is inviolable, while private property may be taken for public purposes with just compensation. Similarly, the constitution of Belgium, in the chapter "Belgians and their rights," indicates that the deprivation of property can only be done for public purposes on the basis of law and with compensation. An exception is the Constitution of Canada, which refers to the property of the constituent provinces.

⁹⁴ And outside the G7: Argentina, Australia, Israel, Pakistan, South Africa and Singapore. Cf. ICJ, *Germany v. Italy*, para 62.

terrorism.⁹⁵ In contrast, the UK State Immunity Act of 1978 (c. 33),⁹⁶ enacted to implement the 1972 Basel Convention discussed earlier, in principle precludes judicial expropriation.

Possible steps by individual states and the EU may therefore require a change in laws in at least some of the states where Russian state assets are located, but even this does not guarantee a seamless expropriation of CBRs. Done at the national level, it may be qualified as a failure to comply with formalities, e.g. by a breach of immunity, and result in legal proceedings in the states confiscating the assets. This can be evidenced, for example, by the ruling of the French Cour de Cassation⁹⁷ in November 2019. The case concerned loans taken out in 1906 and 1908 by the authorities of Tsarist Russia, which were cancelled by a decree of the Bolsheviks with effect from December 1917. The Court ruled that France did not have the means to force Russia to repay the confiscated sums from property located in France and that it should pursue them before the Russian courts.⁹⁸ This decision was influenced, *inter alia*, by Russia's possession of immunity preventing cases against it in the French courts.⁹⁹ In the event of an expropriation carried out by G7 members, it would therefore be Russia that would be able to try to claim its assets in the courts of the confiscating states.

Moreover, in response to Russia's full-scale attack on Ukraine, some states are seeking to modify their laws to create grounds for the use of Russian assets, but even those adopting the most assertive stance towards the aggressor are reckoning with its immunity. For example, Estonia on 15 April last year adopted a law¹⁰⁰ allowing the use of Russian assets to repair the damage caused by the attack on Ukraine, but it only applies to private property (property of individuals and companies supporting the aggression).¹⁰¹ Given Estonia's proactive stance in countering Russia's actions and seeking to hold it accountable, limiting the act to private assets indirectly suggests its scepticism about creating an analogous solution regarding public property, including the assets of the CBR.

⁹⁵ "State Immunity Act 1985," www.laws-lois.justice.gc.ca.

⁹⁶ "State Immunity Act 1978," www.legislation.gov.uk.

⁹⁷ The counterpart of the Supreme Court in the Polish legal system.

⁹⁸ Y. Harrel, "Confiscation des avoirs russes: gare à l'effet boomerang," *Contrepoints*, 3 June 2024, www.contrepoints.org.

⁹⁹ Court of Cassation, "Pourvoi n° 18-16.437, Texte de la décision," 6 November 2019, www.courdecassation.fr; Y. Harrel, *op. cit.*

¹⁰⁰ "The Act on Amendments to the International Sanctions Act and Amendments to Other Associated Acts (332 SE)."

¹⁰¹ "The Riigikogu passed the Act enabling the use of Russia's frozen assets," press release, 15 May 2024, www.riigikogu.ee.

3. ACTIONS TAKEN SO FAR BY THE G7 AND THE EU COUNTRIES

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3.1. Joint Action by the G7 and the EU

The outbreak of war prompted a relatively swift and decisive response from the G7 and EU countries regarding Russian state reserves, followed by third states.¹⁰² As early as 26 February 2022, the G7 countries had agreed to freeze CBR assets under their jurisdiction and block transactions undertaken by the bank.¹⁰³ These arrangements were implemented in March 2022 when all G7 members adopted legal measures to freeze CBR reserves deposited in Western financial institutions, mainly currencies and securities, and prevented their transfer to Russia or other countries. On 16 March 2022, the REPO (Russian Elites, Proxies and Oligarchs) Task Force was established to take all possible legal steps to identify, freeze and, where appropriate, confiscate the assets of individuals and entities sanctioned by the G7 in connection with Russia's invasion of Ukraine.¹⁰⁴ In May 2023, the G7 issued a statement indicating that they were taking steps to fully map Russian state assets immobilised under their jurisdiction. They declared that these assets would remain frozen until Russia had paid for the damage it had caused in Ukraine.¹⁰⁵ The task of determining the status of these assets was entrusted to the REPO Task Force, which finished its initial work in September 2023. At the time, the Task Force estimated the assets to be worth around \$280 billion and noted that the majority were held within the European Union.¹⁰⁶ Back in 2023, while the U.S. was not yet publicly endorsing the G7 members' seizure of Russian assets, it circulated a document to them through unofficial channels. This document suggested seizing CBR assets and described this as a lawful countermeasure intended to induce Russia to end its aggression. In December, the G7 issued a further statement reaffirming that its members would not unlock Russia's state assets until Russia had compensated for the damage caused by the war. New to this statement was the call for decisive steps to be taken to transfer the "extraordinary revenues" (derived from these assets) to Ukraine.¹⁰⁷ This marked a change from the previous approach, but the G7 declaration nevertheless referred only to income derived from assets, not the assets themselves—arguably due to the scepticism of EU countries and the Union itself regarding the total confiscation of these funds. Nevertheless, by the end of December 2023, the United States, backed by Japan, Canada and the United Kingdom, proposed setting up working groups to examine the possibility of permanently seizing CBR assets. Three groups

¹⁰² For example, in May 2023, Switzerland announced that it had frozen assets worth the equivalent of \$8.3 billion, and difficult-to-verify media information about Australia indicated that it had frozen CBR assets worth approximately AUD 5.8 billion, or approximately \$3.7 billion, cf. H. Miller, "Russian Central Bank Has \$8.3 Billion Held in Switzerland," Bloomberg, 10 May 2023, <https://www.bloomberg.com>; A. Moiseienko, "Frozen Russian State Assets," Verfassungsblog, 4 April 2025, <https://verfassungsblog.de>. As emphasized in the introduction, the report does not aim to map CBR assets worldwide and focuses on the G7 and the European Union.

¹⁰³ S. Holland, J. Chalmers, D. Psalidakis, "U.S. allies target 'fortress Russia' with new sanctions, including SWIFT ban," Reuters, 27 February 2022, www.reuters.com.

¹⁰⁴ United Kingdom Government, "Statement from the inaugural ministerial meeting of the Russian Elites, Proxies and Oligarchs Task Force on 16 March 2022," www.gov.uk. Although the name suggested that the group would only target individuals and entities associated with them, subsequent practice showed that they also targeted Russian state property.

¹⁰⁵ U.S. Embassy in Poland, "G7 Leaders' Statement on Ukraine," 19 May 2023, www.pl.usembassy.gov.

¹⁰⁶ U.S. Department of the Treasury, "Russian Elites, Proxies, and Oligarchs (REPO) Deputies Meeting," Readouts, 7 September 2023, www.home.treasury.gov. Australia has also been involved in REPO activities, see U.S. Department of the Treasury, "Fact Sheet: Disrupting and Degrading—One Year of U.S. Sanctions on Russia and Its Enablers," press release, 24 February 2023, www.home.treasury.gov.

¹⁰⁷ U.S. Embassy in Russia, "G7 Leaders' Statement," 6 December 2023, www.ru.usembassy.gov.

were established. These were tasked with addressing the following: 1) assessing the legal issues surrounding seizure; 2) the method of seizure and mitigation of the risks involved; and 3) options for how best to assist Ukraine in utilising the funds.¹⁰⁸ Their creation met the expectations of Germany and Italy in particular, as well as France and EU representatives, who emphasised the need for a careful assessment of the legality of confiscating these assets. They also raised concerns about the stability of financial markets and potential retaliation by Russia, for example against the assets of companies still located on its territory.¹⁰⁹ Japan also expressed doubts about the legality of the mechanism.¹¹⁰

Building on the position taken in December 2023, at its summit in June 2024 the G7 decided to grant Ukraine loans totalling around \$50 billion by the end of that year, with each loan proportional to the size of the respective member's economy. This aid was to be repaid using the profits generated from trading frozen assets deposited in G7 countries. Should Russia agree to compensate Ukraine prior to the loan's expiration, the members were to recover Ukraine's outstanding amount from the funds received from Russia. This loan mechanism was called ERA (Extraordinary Revenue Acceleration) Loans for Ukraine. Ukraine viewed the decision to establish it as an opportunity to reduce Western countries' resistance to the total confiscation of CBR funds. This arrangement was also advantageous to Ukraine in that the cost of the loans would be borne by the Western states providing the relevant funds, which would be repaid gradually with profits from Russian assets. The funds could be used for military purposes, to cover Ukraine's current budget obligations, and for reconstruction. The G7 also reiterated their position of not freezing Russia's assets until they end their aggression and pay for the damage caused to Ukraine.¹¹¹ This statement indirectly confirmed the lack of agreement among group members regarding the confiscation of all Russian assets, which was caused by scepticism from France, Germany, Italy and the EU. In October 2024, the G7 approved the principles and technical parameters of a mechanism designed to ensure consistent action despite legal and institutional differences between lenders. Loans from the ERA were to be finalised from December 2024, with funds to be disbursed by the end of 2027 at the latest.¹¹² In the following months, the debate on asset expropriation continued, but its intensity decreased significantly. After the G7 finance ministers' meeting in late April 2025, participants reported that they had discussed possible ways to fully confiscate all frozen Russian assets in order to finance Ukraine's reconstruction. The Ukrainian finance minister also stated at the time that Ukraine had received a total of about \$13.6 billion from the ERA program.¹¹³

3.2. Action by the European Union and its Members

The EU imposed the first sanctions related to aggression against Ukraine as early as 2014 in response to the annexation of Crimea but they did not apply to CBR assets.¹¹⁴ It was only

¹⁰⁸ P. Tamma, J. Politi, "Washington puts forward G7 plan to confiscate \$300bn in Russian assets," *Financial Times*, 28 December 2023, www.ft.com.

¹⁰⁹ *Ibidem*.

¹¹⁰ I. Wiśniewska, "The EU's decision to use the profits generated by frozen Russian assets," *OSW Analyses*, 24 May 2024, www.osw.waw.pl.

¹¹¹ "Apulia G7 Leaders' Communiqué," 15 June 2024, www.g7italy.it.

¹¹² "G7 Finance Ministers' Statement on Extraordinary Revenue Acceleration (ERA) Loan Initiative," Washington, 25 October 2024, www.consilium.europa.eu.

¹¹³ "G7, EU countries have provided \$13.6 bln secured by frozen Russian assets to Ukraine," *Interfax-Ukraine*, 28 April 2025, en.interfax.com.ua.

¹¹⁴ Council of the European Union, "Foreign Affairs Council 17 March 2014," 17 March 2014, www.consilium.europa.eu.

placed under restrictions in response to Russia's attack on Ukraine. On 23 February 2022, as part of the so-called First sanctions package, the Union restricted the CBR's access to EU capital and financial markets and services.¹¹⁵ In the Second package, adopted two days later, it extended the restrictions, including a ban on the provision of services in respect of shares of Russian state-owned entities on EU trading venues.¹¹⁶ On 28 February, the Council prohibited transactions with the CBR and its affiliates (e.g. acting on its behalf).¹¹⁷ In response to problems in accurately determining the value of the CBR's frozen assets, with the adoption of the 10th Sanctions Package on 25 February 2023, financial institutions in the EU were required to inform the EC and member states about the reserves and assets of the CBR¹¹⁸ and its affiliates.¹¹⁹ Under the revised rules, among others, EU countries and central depositories of CBR assets and reserves were required to cooperate with the EC in verifying the data provided and the Commission was empowered to request any additional information.¹²⁰

In the absence of a legal basis explicitly allowing the expropriation of the CBR, its assets in EU countries remained frozen, although some countries (including the Baltic republics and Poland) called for further EU action. In November 2022 the EC therefore proposed options for their use (as called for by the European Council),¹²¹ and in February 2023 set up a special working group led by Anders Ahnlied, which was tasked with drafting relevant legislation.¹²² These, however, have not been adopted so far. On 12 February last year the Council did, however, adopt a decision¹²³ in which, citing the G7 position, it clarified, inter alia, the legal status of revenues generated by frozen assets (they are not considered state assets and therefore covered by immunity), as well as a regulation¹²⁴ clarifying the obligations of central depositories holding such assets and reserves.¹²⁵ The Council obliged central depositories holding more than €1million of CBR assets to separately account for extraordinary cash balances arising as a result of sanctions, prohibited their disposal and ordered them to keep them in separate Accounts.¹²⁶ This was in preparation for the implementation of the decision to use net profits from frozen assets to support the armed forces, the defence industry and the reconstruction of Ukraine adopted in the following weeks.¹²⁷

¹¹⁵ Council of the European Union, "EU adopts sanctions package in response to Russia's recognition of non-government-controlled areas in the Donetsk and Luhansk regions of Ukraine and the deployment of troops to the region," press release, 23 February 2022, www.consilium.europa.eu.

¹¹⁶ Council of the European Union, "Russia's military aggression against Ukraine: the EU imposes sanctions on President Vladimir Putin and Foreign Minister Sergey Lavrov and adopts broad individual and economic sanctions," press release, 25 February 2022, www.consilium.europa.eu.

¹¹⁷ Council of the European Union, "EU adopts new set of measures in response to Russia's military aggression against Ukraine," press release, 28 February 2022, www.consilium.europa.eu.

¹¹⁸ Council Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine.

¹¹⁹ Council Regulation (EU) No. 269/2014 on restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

¹²⁰ European Commission, "Questions and Answers: tenth package of restrictive measures against Russia," 25 February 2023, www.ec.europa.eu.

¹²¹ Cf. e.g. European Council Conclusions of 21–22 October 2022.

¹²² E. Kaca, "Using Frozen Russian Assets to Rebuild Ukraine: Possibilities for the EU," *PISM Bulletin*, 15 May 2023, www.pism.pl.

¹²³ Council Decision (CFSP) 2024/577 of 12 February 2024 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's destabilising action in Ukraine.

¹²⁴ Council Regulation (EU) 2024/576 of 12 February 2024 amending Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine.

¹²⁵ Council of the European Union, "Immobilised Russian assets: Council decides to set aside extraordinary revenues," press release, 12 February 2024, www.consilium.europa.eu.

¹²⁶ *Ibidem*.

¹²⁷ Council of the European Union, "Timeline—EU sanctions against Russia," www.consilium.europa.eu.

On 21 May 2024, the foreign ministers of the EU member states decided to use the profits from the frozen assets for the rearmament and reconstruction of Ukraine.¹²⁸ According to Tendences Trends, CBR assets generated €0.8 billion in 2022, €4.3 billion in 2023, more than €6.5 billion in 2024 and are likely to reach €7 billion in the next accounting period.¹²⁹ Indeed, sanctions have prevented Belgium's Euroclear, Luxembourg's Clearstream¹³⁰ and other central depositories from transferring interest from frozen assets to the CBR, leading to the accumulation of unprecedented cash balances in their accounts.¹³¹ In accordance with the regulations and risk management rules applicable to central depositories, these balances are reinvested and therefore generate further profits. Based on the Council's decision, central depositories holding more than €1 million of CBR assets are obliged to remit to the EU twice a year the windfall profits on assets generated after 15 February 2024.¹³² 10 January 2025 the EC transferred to Ukraine the first tranche of €3 billion of funds so generated.¹³³ In addition, countries are making changes aimed at increasing these gains, for example, Belgium reduced its management fees from 3% before the outbreak of aggression against Ukraine to 1.5% in its aftermath, and in May 2024 to 0.3%.¹³⁴

In addition, since the beginning of this year, the EC has paid out a total of €4 billion of €18.1 billion of macro-financial loans to Ukraine, which are to be repaid from the profits from the frozen CBR assets under ERA.¹³⁵ The dates and amounts of the EU's transfer of subsequent tranches are currently being agreed with Ukraine.

The US turnaround in its policy towards aid to Ukraine, and the positioning of Europe to possibly fill the gap created, has catalysed a debate in the EU forum on the possibility of a complete expropriation of CBR assets. Such an action requires a unanimous decision of the Council, which at this time is far from reaching a consensus. At the beginning of March this year, the expropriation of Russian assets was advocated by a minority of EU members,¹³⁶ including Poland, the Czech Republic, the Nordic countries and the Baltic republics.¹³⁷ It was also championed by the President of the European Council António Costa¹³⁸ and the EU High

¹²⁸ Y. Harrel, *op. cit.*

¹²⁹ L. de Maisonneuve, "Quelle est la valeur des avoirs russes gelés et comment l'Europe et la France les utilisent?," BFM Business, 13 March 2025, www.bfmtv.com.

¹³⁰ "EU pushes ahead plan to tax profits of frozen Russian assets," *Luxembourg Times*, 23 January 2024, www.luxtimes.lu.

¹³¹ D. Franchini, "Immobilised Assets, Extraordinary Profits: The EU Council Decision on Russia's Central Bank Reserves and Its Legal Challenges," EJIL: Talk! Blog of European Journal of International Law, 1 March 2024, www.ejiltalk.org.

¹³² I. Wiśniewska, *op. cit.*

¹³³ European Commission, "La Commission verse la première tranche de 3 milliards d'euros à l'Ukraine sur sa part du prêt du G7, à rembourser avec le produit des actifs russes immobilisés," Delegation of the European Commission to France, 10 January 2025, www.france.representation.ec.europa.eu.

¹³⁴ "Accord 'de principe' de l'UE pour utiliser les avoirs russes gelés," *Swissinfo.ch*, 8 May 2024, www.swissinfo.ch.

¹³⁵ The first tranche, paid on 10 January this year, amounted to EUR 3 billion, while the second—on 20 March—amounted to \$1 billion. See European Commission, "Commission disburses first €3 billion to Ukraine of its part of the G7 loan, to be repaid with proceeds from immobilised Russian assets, 10 January 2025, www.ec.europa.eu; European Commission, "Commission delivers a further €1 billion to Ukraine under its part of the G7 loan, to be repaid with proceeds from immobilised Russian assets," 20 March 2025, www.ec.europa.eu.

¹³⁶ S. Lynch, "Europe's hour," *Politico Brussels Playbook*, 6 March 2025, www.politico.eu.

¹³⁷ "Key European countries oppose the confiscation of Russian assets to support Ukraine, Politico reports," *Pravda Estonia*, 25 February 2025, www.estonia.news-pravda.com.

¹³⁸ T. Moller-Nielsen, "Use frozen Russian assets for Ukraine reparations, says Costa," *Euractiv*, 25 March 2025, www.euractiv.com.

Representative for Foreign and Security Policy Kaja Kallas,¹³⁹ who even stated in the European Parliament last November that Ukraine was entitled to use Russian assets and it would not be a confiscation.¹⁴⁰ As Kallas did not refer to a specific legal basis for this, her opinion can be seen rather as an invocation of considerations of broad equity—the right of Ukraine, as a victim of an attack, to use the assets of the aggressor Russia, e.g. for defence or post-war reconstruction. In addition to moral arguments, some (such as Belgian parties Ecolo, Groen, and former French Prime Minister Gabriel Attal),¹⁴¹ point out that this is the only solution that does not impose an additional financial burden on European taxpayers to rearm and rebuild Ukraine.¹⁴² This is an argument directed at the so-called frugal states, whose opinions are divided, for example, the Netherlands remain opponents of the solution,¹⁴³ while the new German chancellor Friedrich Merz seems to be more willing to apply this measure than his predecessor was.¹⁴⁴ Another argument that was cited more often at the beginning of Russia's full-scale aggression against Ukraine and less often now, although it is still valid, is to prevent Russia from using assets for rearmament. Blocking access to them would already undermine the ability to finance aggression. However, in the longer term, including after the eventual cessation of hostilities and before a peace agreement is reached, expropriation will provide a better guarantee of this objective than an asset freeze, which requires regular renewal by unanimous decision of the Council, which may face problems in the form of opposition from Hungary or Slovakia.

The arguments against the expropriation of CBRs raised in the EU relate primarily to issues of financial and legal trading certainty. Among others, Ursula von der Leyen, President of the European Commission is sceptical of such a solution.¹⁴⁵ Christine Lagarde, President of the European Central Bank (ECB), has warned that such a measure would be incompatible with the international order, respect for which the EU is trying to enforce against Russia.¹⁴⁶ It would also, in her view, constitute a breach in the protection of third countries' assets, which lies at the heart of the international financial system¹⁴⁷ and could undermine the credibility of the euro as a reserve currency.¹⁴⁸ Therefore, the expropriation of Russian assets is mainly opposed by countries with third-country bank reserves (Belgium, France and Luxembourg),¹⁴⁹ including non-democratic countries, which the expropriation of the CBR could provoke the transfer of deposits to other countries,¹⁵⁰ but also some other eurozone countries, e.g. Italy,

¹³⁹ J. Liboreiro, "Poland pitches rearmament bank to boost Europe's defence spending," Euronews, 6 February 2025, www.euronews.com.

¹⁴⁰ T. Moller-Nielsen, "EU Commission doubles down on Russian asset confiscation despite Belgian warnings," Euractiv, 20 January 2025, www.euractiv.com.

¹⁴¹ B. Farge, "Un gel des avoirs russes? De Gabriel Attal à Manuel Bompard... Qu'en pensent les politiques?," BMFTV, 6 March 2025, www.bfmtv.com.

¹⁴² "Belgian Greens push for seizure of Russian assets ahead of defence summit," Belganews, 5 March 2025, www.belganewsagency.eu.

¹⁴³ I. Wiśniewska, *op. cit.*

¹⁴⁴ "Germany's Merz says we will confiscate frozen Russian assets if legally possible," Reuters, 15 May 2025, www.reuters.com.

¹⁴⁵ "The EU still cannot reach a compromise on the confiscation of frozen Russian assets: Who is against it?," UBN Ukraine Business News, 26 February 2025, www.ubn.news.

¹⁴⁶ T. Moller-Nielsen, "EU Commission doubles...", *op. cit.*

¹⁴⁷ L. Dubois, S. Fleming, "The legal case for seizing Russia's assets," *Financial Times*, 20 December 2023, www.ft.com.

¹⁴⁸ J. Liboreiro, *op. cit.*

¹⁴⁹ T. Moller-Nielsen, "EU Commission doubles...", *op. cit.*

¹⁵⁰ E. Kaca, *op. cit.*

the Netherlands.¹⁵¹ Belgian Prime Minister Bart De Wever warned that expropriation could cause risks to the global financial system (and even called it over the top—an “act of war”).¹⁵² Although the freezing of CBR assets has not led to a massive transfer of reserves from the EU (or other G7 countries) to third countries,¹⁵³ because, despite sanctions, Western financial markets lead the world in terms of the safety of investment instruments and it is difficult to find a substitute for them,¹⁵⁴ it cannot be ruled out that a possible expropriation would be used in an anti-Western narrative by third countries such as the BRICS+ group.¹⁵⁵ In this regard, former Austrian Foreign Minister Alexander Schallenberg stressed that a possible expropriation of Russian assets must be done legally in order to not jeopardise the reputation of the EU.¹⁵⁶

The concern of many EU countries about Russia’s reaction to the expropriation also resounds, not least because of the realisation of the threat of litigation against them.¹⁵⁷ The French far left, on the other hand, has warned that the seizure of CBR assets could trigger retaliation against ECB assets held abroad,¹⁵⁸ which in practice seems unlikely (the ECB is unlikely to hold assets in countries that might be interested in taking such steps against the EU).¹⁵⁹ One of the more real negative consequences of expropriating CBR assets, however, is the retaliation against Western investors’ assets announced by Russian Finance Minister Anton Siluanov. This would be another¹⁶⁰ blow to Western entrepreneurs remaining in Russia, including those from France. Nevertheless, this does not seem to be a key factor being considered in the French debate. On 12 March this year, the French National Assembly adopted a resolution on strengthening support for Ukraine, which, among other things, calls for the seizure of frozen Russian assets, which is opposed by the government.¹⁶¹ Economy Minister Éric Lombard and President Emmanuel Macron warn of potential violations of “international agreements.”¹⁶²

France, Germany and Belgium further warned against creating a dangerous precedent in international law,¹⁶³ which would allow expropriation as a coercive measure. This argument seems to particularly resonate among German politicians, who fear making further reparation claims against the state for crimes committed during the Second World War.¹⁶⁴ In this context, however, some expert circles argue that setting a precedent will not necessarily be harmful—on

¹⁵¹ T. Møller-Nielsen, “EU Commission doubles...,” *op. cit.* Although not all; for example Lithuania, Latvia and Estonia are in favour.

¹⁵² G. Sorgi, H. Cokelaere, “Seizing frozen Russian assets is ‘an act of war,’ says Belgian PM,” Politico, 21 March 2025, www.politico.eu.

¹⁵³ H. Koziel, “Russia. Why the West is delaying taking over frozen reserves,” Parkiet, 4 March 2024, www.parkiet.com.

¹⁵⁴ I. Wiśniewska, *op. cit.*

¹⁵⁵ Y. Harrel, *op. cit.*

¹⁵⁶ RT, “EU could be disgraced by confiscating frozen Russian assets Austrian FM,” The Press United, 3 July 2023, www.thepressunited.com.

¹⁵⁷ W. Jakóbiak, “Bogactwa oligarchów rosyjskich nie zostaną skonfiskowane, ale przehandlowane na pomoc Ukrainie,” Biznes Alert, 21 May 2024, www.biznesalert.pl, www.biznesalert.pl.

¹⁵⁸ B. Farge, *op. cit.*

¹⁵⁹ I. Wiśniewska, *op. cit.*

¹⁶⁰ Cf. S. Kolarz, “Hundreds of Western Companies Still Operating in Russia,” *PISM Bulletin*, no. 144 (2452), 3 October 2024, www.pism.pl.

¹⁶¹ M. Heyman, “Guerre en Ukraine: les députés adoptent une résolution de soutien à Kiev, appelant à saisir les avoirs russes,” BMFTV, 13 March 2025, www.bfmtv.com.

¹⁶² B. Farge, *op. cit.*

¹⁶³ L. Oleniak, *op. cit.*

¹⁶⁴ L. Dubois, S. Fleming, *op. cit.*

the contrary, it may act as a deterrent to discourage potential aggressors from attacking.¹⁶⁵ At the same time, France, Germany, Spain,¹⁶⁶ are therefore slowly changing their stance towards the confiscation of Russian assets and are now exploring—together with the UK, which is outside the EU—the possibility of using them.¹⁶⁷

However, among the arguments against expropriating the CBR, there are also concerns that taking such an action would deprive the EU and its partners of a bargaining chip in negotiations with Russia (the possibility of, for example, unfreezing assets in exchange for concessions by the aggressor during possible peace talks).¹⁶⁸ However, this argument is unconvincing insofar as the asset freeze has so far not led Russia to make concessions, such as stopping its attacks on Ukraine.¹⁶⁹

3.3. U.S. Actions

Until the beginning of 2025, when President Donald Trump took office, the U.S. acted as the informal global leader in terms of actions relating to Russian state assets. On 28 February 2022, the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury prohibited U.S. entities from conducting any transactions with the CBR and the Russian Ministry of Finance. Foreign Assets Control (OFAC) of the U.S. Department of the Treasury prohibited American entities from conducting any transactions with the CBR and the Russian Ministry of Finance, among others. The restrictions included the transfer of any assets to such entities or currency transactions on their behalf—only the issuing office could grant incidental permission. In practice, this meant the freezing of Russian assets in the possession of U.S. entities. On 19 May 2023, the OFAC supplemented the existing regulations with a reporting obligation for U.S. entities regarding ownership or control of property belonging to sanctioned entities (including the CBR).¹⁷⁰ In October 2023, U.S. Secretary of the Treasury Janet Yellen explicitly stated her support for transferring the proceeds of frozen Russian state assets to Ukraine.¹⁷¹ However, earlier in 2023, she had expressed doubts to Congress about the compatibility of their possible confiscation with U.S. law, advocating its amendment.¹⁷²

This obstacle was removed in April 2024 when Congress passed and President Joe Biden signed the REPO for Ukrainians Act. This authorised the U.S. government to seize CBR assets and interest under U.S. jurisdiction within five years of its enactment. These funds would then be placed in an appropriate depository before being transferred to assist Ukraine, either directly or via a contribution to an international body, fund, or other mechanism that would compensate Ukraine. However, the Act made this conditional on the U.S. President taking

¹⁶⁵ Y. Ziskina, J. Firestone, T. Nesterchuk, “No more excuses: Debunking arguments against seizing Russian state assets for Ukraine,” Discussion Paper, EPC European Policy Centre, 7 June 2024, p. 8.

¹⁶⁶ “The EU still cannot reach...,” *op. cit.*; G. Sorgi, H. Cokelaere, *op. cit.*

¹⁶⁷ O. Hlushchenko, “European countries agree on issue of confiscating Russian assets worth €200bn—FT,” *Ukrainska Pravda*, 4 March 2025, www.pravda.com.ua.

¹⁶⁸ A. Moiseienko, “Politics, Not Law, Is Key to Confiscating Russian Central Bank Assets,” *Just Security*, 17 August 2022, www.justsecurity.org.

¹⁶⁹ A. Moiseienko, “Collateralising Russia’s Frozen Currency Reserves: A Creative Solution, Playing for Time, or Both?,” *EJIL: Talk! Blog of European Journal of International Law*, 13 February 2024, www.ejiltalk.org.

¹⁷⁰ D. Mortlock et al., “Russia Sanctions Review: Expanding U.S. Sanctions Continue to Put Pressure on Russia,” *Willkie Farr & Gallagher LLP Client Alert*, 1 August 2024, www.willkie.com.

¹⁷¹ U.S. Department of the Treasury, “Remarks By Secretary of the Treasury Janet L. Yellen at the Eurogroup Finance Ministers Meeting in Luxembourg, Luxembourg,” *Secretary Statements & Remarks*, 16 October 2023, www.home.treasury.gov; M. Pronczuk, E. Nelson, “E.U. Moves to Tap Frozen Russian Assets to Help Ukraine,” *The New York Times*, 12 December 2023, www.nytimes.com.

¹⁷² *Ibidem*.

decisive steps to coordinate multilateral action with other G7 countries.¹⁷³ At the same time, the Act stipulated that these assets must remain frozen until hostilities between Russia and Ukraine had ceased, and until Russia had fully compensated Ukraine for its losses, or joined an international mechanism to do so. This prevented the President from unilaterally lifting previously imposed sanctions and thus unfreezing the assets. The Act also explicitly ordered the locating of all Russian-owned assets under U.S. jurisdiction.¹⁷⁴

In December 2024, the U.S. entered into a \$20 billion Emergency Relief Assistance (ERA) loan agreement with Ukraine, to be repaid from profits on the Central Bank of Russia (CBR) assets. This was in line with Secretary Yellen's position in 2023 and the G7 agreements in June and October 2024. The day after the deal was finalised, the U.S. transferred the full amount to a fund set up by the World Bank to support Ukraine.¹⁷⁵ However, the publicly — available information does not indicate whether the existing interest on assets located in the U.S. has already been seized at the President's direction, nor whether this will happen in the future.

Donald Trump's inauguration at the end of January 2025 had a significant impact on the US government's stance on sanctions against Russia, including those related to CBR assets. In March 2025, the president's administration requested that the State and Treasury departments prepare a list of sanctions on Russia that could be lifted as part of the president's initiative to encourage the Russian government to engage in peace talks and end the war in Ukraine. While there was no information on whether the changes would affect CBR assets, the REPO for Ukrainians Act meant that, unless other conditions were met to unlock Russian state funds, they would still require Congressional approval.

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3.4. Actions of Canada, Japan and the United Kingdom

The other G7 countries were also taking action to enforce sanctions against Russia and implement the group's arrangements.

¹⁷³ U.S. Congress, "S.2003—REPO for Ukrainians Act," www.congress.gov.

¹⁷⁴ I. Brunk, "The Controversial REPO Act Is Now Law," *Lawfare*, 25 April 2024, www.lawfaremedia.org.

¹⁷⁵ U.S. Department of the Treasury, "Treasury Department Announces Disbursement of \$20 Billion Loan to Benefit Ukraine, To Be Repaid with Proceeds Earned from Immobilized Russian Sovereign Assets," press release, 10 December 2024, www.home.treasury.gov; The White House, "Statement from President Joe Biden on Historic Decision to Leverage Russian Sovereign Assets to Support Ukraine," 23 October 2024, www.bidenwhitehouse.archives.gov.

¹⁷⁶ E. Banco, "White House seeks plan for possible Russia sanctions relief, sources say," *Reuters*, 3 March 2025, www.reuters.com.

¹⁷⁷ *Ibidem*.

Canada was the first country to launch an initiative to freeze CBR assets, doing so as early as the G7 meeting on 24 February 2022,¹⁷⁸ and the first to subsequently advocate using frozen Russian assets to support Ukraine.¹⁷⁹ As early as 28 February 2022, it placed CBR on the list of sanctioned entities.¹⁸⁰ The administration froze Russian state assets under the Special Economic Measures Act of 1992 (SEMA),¹⁸¹ amended that day to include the CBR.¹⁸² As early as 3 March 2022, the Canadian authorities introduced legislation requiring public and private entities to report their holdings of assets belonging to sanctioned entities, including the CBR.¹⁸³ By the end of June 2022, Canada passed legislation allowing for the confiscation of the property of individuals and entities included on its sanctions lists, including money and other assets. However, the legislation did not explicitly state whether the CBR could be included among the entities,¹⁸⁴ which caused controversy.¹⁸⁵ Although the CBR was already among the sanctioned entities, experts pointed out that there were further legal restrictions preventing such a step.¹⁸⁶ Ultimately, in October 2023 a bill amending the Special Economic Measures Act was brought to the Canadian Senate, which would explicitly allow for the forfeiture of foreign sovereign assets to Canada. It passed the first reading in the Senate but was not passed into law. In April 2024, during the budget amendment process, the authorities informed the public of their intention to increase engagement with international partners, particularly the G7, to identify further methods of holding Russia accountable for its aggression against Ukraine. They also announced that they would make further changes to Canada's sanctions regime contingent on reaching consensus in this format.¹⁸⁷

The clear supporter in the Canadian government of using Russian state assets was the Finance Minister, Chrystia Freeland. She was one of the key figures encouraging the G7 countries to freeze the assets and implement the ERA loan mechanism.¹⁸⁸ However, attempts to convince some partners in 2024 were unsuccessful, and Canada did not ultimately follow the U.S. in creating a legal framework for potential confiscation. It seems that Canada hoped to reach international agreements first before making a decision. Following the G7 agreement on the ERA programme in October 2024; however, Canada concluded a loan agreement with Ukraine under the programme for approximately \$3.4 billion (CAD 2.7 billion), to be repaid from the proceeds of Russian state assets. The first tranche of approximately \$1.7 billion was disbursed in mid-March 2025.¹⁸⁹

¹⁷⁸ Prime Minister of Canada, "Prime Minister strengthens global security and stability at the G7 Summit," 13 June 2024, www.pm.gc.ca.

¹⁷⁹ Government of Canada, "Statement by the Deputy Prime Minister and Minister of Finance on the Extraordinary Revenue Acceleration Loan Mechanism and Russian Sovereign Assets," 25 October 2024, www.canada.ca.

¹⁸⁰ Government of Canada, "Consolidated Canadian Autonomous Sanctions List," www.international.gc.ca.

¹⁸¹ Prime Minister of Canada, *G7 Extraordinary Revenue Acceleration Loans*, 13 June 2024, www.pm.gc.ca.

¹⁸² Government of Canada, "Special Economic Measures (Russia) Regulations SOR/2014-58," Justice Laws, www.laws-lois.justice.gc.ca.

¹⁸³ *Ibidem*.

¹⁸⁴ Hence, for example, voices calling for their confiscation on the basis of legislation already in force, cf. e.g. J. McGregor, "Canada can now seize, sell off Russian assets. What's next?," CBC, 27 June 2022, www.cbc.ca.

¹⁸⁵ Some argued that this was possible; see, for example, T. Khutor, A. Mikheiev, *op. cit.*, pp. 7–8.

¹⁸⁶ A. Neil Campbell, "Services, Sensitive Technologies, Luxury Goods, Gold, and Disinformation Sanctions—Plus a Forfeiture Regime: Canada's Latest Responses to the Russian Invasion of Ukraine," McMillan LLP, 12 July 2022, www.mcmillan.ca.

¹⁸⁷ A. Gasch Burnett, "On Russian assets, Canada throws away a clear chance to lead: Aaron Gasch Burnett for Inside Policy," Macdonald-Laurier Institute, 6 June 2024, www.macdonaldlaurier.ca.

¹⁸⁸ K. Duggan, "Plan to fund Ukraine war with Russian assets down to 'technicalities Canadian lawmaker says,'" Politico, 26 September 2024, www.politico.com.

¹⁸⁹ Ministry of Finance of Ukraine, "Ukraine has received the first tranche from Canada amounting CAD 2.5 billion under the G7 ERA initiative," press release, 13 March 2025, www.mof.gov.ua.

The first restrictions on Russian state assets in the United Kingdom were introduced on 28 February 2022. These included a ban on transactions with the CBR and the Russian Ministry of Finance,¹⁹⁰ among others, which effectively froze these assets in the UK. On 1 March 2022, the British government tightened the blockade on the CBR's reserves, preventing any additional entities from providing it with financial services.¹⁹¹ However, the United Kingdom introduced transitional periods that allowed its domestic entities to receive interest on Russian debt incurred before 1 March 2022, among other things. The final exemption expired at the end of June 2022.¹⁹² In June 2023, Foreign Secretary James Cleverly announced new legislation to maintain sanctions against Russia until compensation is paid to Ukraine. He also revealed plans to introduce legislation obliging individuals and entities in the United Kingdom to report any Russian assets they hold, under threat of fines or seizure of those assets.¹⁹³ Ultimately, the latter were not introduced until December 2023.¹⁹⁴ In October 2023, the Chancellor of the Exchequer, Jeremy Hunt, asked the Bank of England to analyse options for using Russian state assets to support Ukraine's war effort.¹⁹⁵ This was linked to a G7 discussion on the possibility of using and confiscating these assets' profits. As discussions about the seizure of CBR assets became more serious in Canada, Foreign Secretary David Lammy called for legislation similar to that proposed in the UK to be adopted.¹⁹⁶ Ultimately, the United Kingdom did not implement such measures. However, in accordance with the G7's arrangements of 1 March 2025, the UK and Ukraine concluded a loan agreement under the ERA programme for approximately \$2.92 billion (£2.26 billion). This is to be repaid from the profits of the CBR assets. According to the agreement, the money was to be transferred in three equal annual instalments. The first one was to be paid approximately one week after the agreement was concluded and was to be used for military procurement to support Ukraine's defence capabilities.¹⁹⁷ The first tranche worth about \$1 billion was transferred to Ukraine on 7 March and the second, a similar amount, on 9 April 2025.¹⁹⁸ In addition, in March 2025, there was information that the UK is currently working with the EU, especially France and Germany, to figure out how to use Russian state assets,¹⁹⁹ but they're not really suggesting expropriation, more like using them to secure

¹⁹⁰ HM Government, "UK Statement on Further Economic Sanctions Targeted at the Central Bank of the Russian Federation," 28 February 2022, www.gov.uk; HM Government, "UK support for Ukraine following Russia's invasion: Foreign Secretary's statement 28 February 2022," statement before Parliament, 28 February 2022, www.gov.uk.

¹⁹¹ HM Government, "UK introduces new sanctions against Russia including ban on ships and fresh financial measures," 1 March 2022, www.gov.uk; "The Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2022," www.legislation.gov.uk.

¹⁹² See HM Treasury, Office of Financial Sanctions Implementation, "General Licence—Payments by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation related to debt issued by them before 1 March 2022," INT/2022/1495176, www.assets.publishing.service.gov.uk.

¹⁹³ HM Government, "New legislation allows Russian sanctions to remain until compensation is paid to Kyiv," press release, 20 June 2023, www.gov.uk.

¹⁹⁴ HM Treasury, Office of Financial Sanctions Implementation, "New reporting requirements for Designated Persons under the Russia Regime," OFSI Blog, 12 February 2024, www.ofsi.blog.gov.uk.

¹⁹⁵ O. Smith, F. Islam, T. Espiner, "UK explores using frozen Russian assets to fund Ukraine defence," BBC News, 13 October 2023, www.bbc.com.

¹⁹⁶ M. Hess, C.K. Mott, "Seize Russia's Assets Before Trump Takes Office," *Foreign Policy*, 11 December 2024, www.foreignpolicy.com.

¹⁹⁷ HM Government, "UK reinforces support for Ukraine with £2.26 billion loan to bolster Ukrainian defence capabilities," press release, 1 March 2025, www.gov.uk.

¹⁹⁸ Ministry of Finance of Ukraine, "Ukraine receives second GBP 752 million tranche from UK funded by frozen Russian assets," 14 April 2025, www.kmu.gov.ua.

¹⁹⁹ O. Hlushchenko, *op. cit.*

a future peace deal with Ukraine; the assets would only be seized if Russia broke the deal.²⁰⁰ In May 2025, media reported that the UK was insisting on transferring immobilized Russian assets to a separate investment fund, which would prevent Russia from easily disposing of them in the event of a possible non-extension of sanctions imposed on it.²⁰¹

Regarding Japan, on 28 February 2022, Prime Minister Fumio Kishida announced sanctions against the CBR in the form of restrictions on transactions with this bank,²⁰² resulting in the freezing of its Japanese assets. The relevant provisions were announced on 1 March 2022.²⁰³ There is no clear information available on whether Japan has introduced rules requiring all public and private entities to report assets held by the CBR. However, press reports suggest that these assets were deposited with the Japanese central bank. There is no clear information available on whether Japan has introduced rules requiring all public and private entities to report assets held by the CBR. However, press reports suggest that these assets were deposited with the Japanese central bank.²⁰⁴ Regarding the confiscation of CBR assets, Finance Minister Shunichi Suzuki was questioned on this possibility on 28 March 2022. He categorically stated that Japanese law did not permit the government to seize such reserves.²⁰⁵ In general, Japanese representatives have been cautious in their statements about the future of Russian state assets. For example, when asked in June 2024 about the possibility of using interest from these assets to support Ukraine, Foreign Minister Yoko Kamikawa replied only that Japan was engaged in intensive debate on this issue within the G7.²⁰⁶ Following the G7's decision to provide Ukraine with loans through the ERA programme, Foreign Minister Takeshi Iwaya announced at the end of October 2024 that Japan would lend Ukraine around \$3 billion (£2.3 billion). Like the other ones, this loan was to be repaid from the proceeds of frozen CBR assets, and the Japanese government took steps to ensure the funds were disbursed quickly.²⁰⁷ Like the U.S., Japan was to transfer it through a dedicated World Bank fund.²⁰⁸ At the end of December 2024, Ukrainian President Volodymyr Zelensky confirmed Japan's intention to grant this loan,²⁰⁹ and 18 April 2025 its conclusion was confirmed. The funds were to be transferred to cover urgent budget expenses and support the reconstruction and development of the country.²¹⁰ By the end of May 2025, it was unclear whether any part of it had been transferred to that country.

²⁰⁰ H. Foy et al., "Europeans move towards seizing €200bn of Russian assets," *Financial Times*, 3 March 2025, www.ft.com.

²⁰¹ G. Sorgi, "UK wants more say over fate of €200B in frozen Russian assets," *Politico*, 12 May 2025, www.politico.eu.

²⁰² Prime Minister's Office of Japan, "Press Conference by the Prime Minister regarding His Telephone Talk with President Zelensky of Ukraine," 28 February 2022, www.japan.kantei.go.jp.

²⁰³ Ministry of Finance of Japan, "Ukuraina jōsei nikansuru gaikoku kawase oyobi gaikoku bōeki hō ni motozuku sochi nitsuite" [Measures based on the Foreign Exchange and Foreign Trade Act regarding the situation surrounding Ukraine], 1 March 2023, www.mof.go.jp.

²⁰⁴ "Japan cannot confiscate Russian foreign reserves at BOJ—finmin Suzuki," *Reuters*, 28 March 2022, www.reuters.com.

²⁰⁵ *Ibidem*.

²⁰⁶ Ministry of Foreign Affairs of Japan, "Press Conference by Foreign Minister Kamikawa Yoko," 11 June 2024, www.mofa.go.jp.

²⁰⁷ Ministry of Foreign Affairs of Japan, "Press Conference by Foreign Minister Iwaya Takeshi," 29 October 2024, www.mofa.go.jp.

²⁰⁸ "Japan to provide Ukraine with over \$3 billion loan under G7 initiative using frozen Russian assets," *The New Voice of Ukraine*, 29 October 2024, www.english.nv.ua.

²⁰⁹ "Japan to transfer \$3 billion from frozen Russian assets to Ukraine, Zelensky says," *Kyiv Independent*, 25 December 2024, www.kyivindependent.com.

²¹⁰ M. Fornusek, "Japan signs deal on \$3 billion for Ukraine under G7 loan," *Kyiv Independent*, 18 April 2025, [kyivindependent.com](http://www.kyivindependent.com).

4. ECONOMIC AND FINANCIAL IMPLICATIONS OF THE POTENTIAL CONFISCATION OF CBR ASSETS

Grzegorz Kozłowski

4.1. Economic and Financial Risks Associated with the Expropriation of CBR Assets

The possible expropriation of CBR assets in Western jurisdictions could pose economic and financial risks. The most significant challenges are:

- a potential weakening of the position of the confiscating countries' currencies on the international currency market, due to a decline in global investor confidence in the credibility, stability and predictability of these currencies' issuers;
- an increase in the yield on debt securities issued in these currencies;
- the development of alternative payment systems that enable international transactions to be carried out outside the Western financial architecture.

Among the basic elements that determine the status of a currency and its role as a reserve asset, six fundamental factors can be identified: the size of the economy, the importance of the economy in international trade, the size and openness of financial markets, currency convertibility, the use of the currency as a so-called currency anchor, and internal macroeconomic policy (political and economic stability).²¹¹ Both the U.S. dollar and the euro meet these conditions, as do the Japanese yen and the Swiss franc, and belong to the most stable "safe haven" currencies.²¹² The U.S. dollar occupies a unique position within the international payment system, dominating most financial markets around the world in both absolute and relative terms (other currencies, including the euro, have a more limited international reach).²¹³ This strengthens the ability of the United States to effectively impose economic sanctions on other countries (including Russia). Even if trade does not involve the U.S. or U.S. entities, it usually involves local correspondent banks with accounts at the Federal Reserve (the U.S. central bank).²¹⁴ This enables the United States to swiftly take action against countries that have been subjected to economic sanctions.²¹⁵

The dominant position of the USD and EUR is reflected in the structure of global foreign exchange reserves, where both currencies account for approximately 80% of all reserve assets.

²¹¹ U.S. Department of Treasury, "Report to Congress on International Economic and Exchange Rate Policies," Appendix 1, 15 October 2009, www.home.treasury.gov.

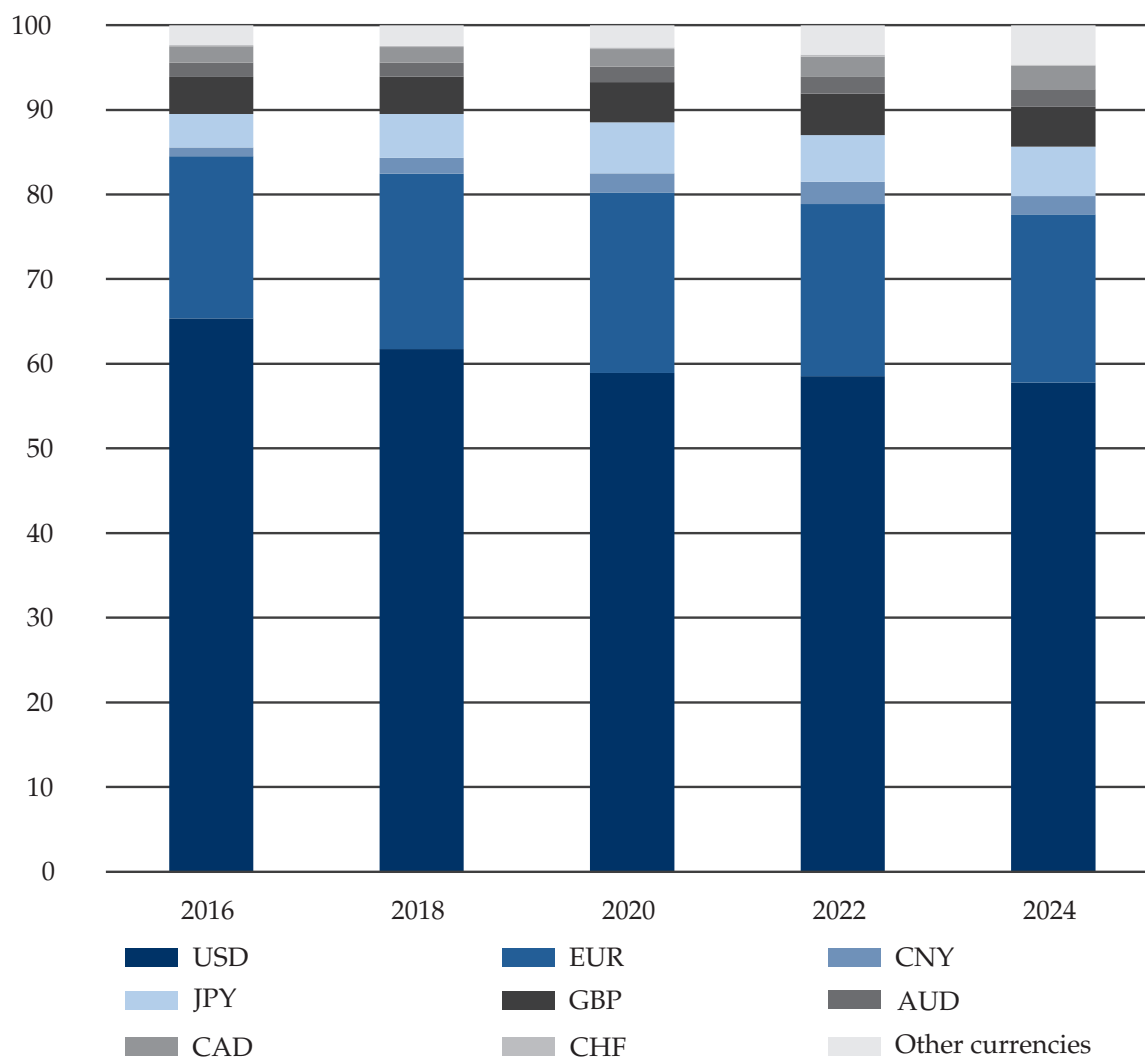
²¹² This is the classification of the US Treasury Department. See I. Pszczółka, "Międzynarodowe waluty *safe haven* – bezpieczna przystań w czasie kryzysu," *Optimum Economic Studies*, nr 1 (103), 2021, pp. 80–90; T. Teng, "Euro surges to eight month high as safe haven currency," Euronews, 7 August 2024, www.euronews.com.

²¹³ P. McGuire et al., "International finance through the lens of BIS statistics: the global reach of currencies," *BIS Quarterly Review*, 10 June 2024, p. 14, www.bis.org.

²¹⁴ Correspondent banking is a form of cooperation in which one bank (the correspondent bank) holds deposits belonging to other banks (the respondent banks) and provides payment and other financial services to them. See Bank for International Settlements. Committee on Payments and Market Infrastructures, "Correspondent banking," *BIS Quarterly Review*, July 2016, p. 43, www.bis.org.

²¹⁵ J. Jernigan, "The US Dollar: The World's Most Influential Currency," Commerce Trust, 10 October 2024, www.commercetrustcompany.com.

CHART 6 AND TABLE 1. ALLOCATION OF FOREIGN EXCHANGE RESERVES WORLDWIDE
(2016–2024, IN %)



| Currency | 2016 | 2018 | 2020 | 2022 | 2024 |
|----------|-------|-------|-------|-------|-------|
| USD | 65.36 | 61.76 | 58.92 | 58.52 | 57.80 |
| EUR | 19.14 | 20.67 | 21.29 | 20.37 | 19.83 |
| CNY | 1.08 | 1.89 | 2.29 | 2.61 | 2.18 |
| JPY | 3.95 | 5.19 | 6.03 | 5.54 | 5.82 |
| GBP | 4.35 | 4.43 | 4.73 | 4.90 | 4.73 |
| AUD | 1.69 | 1.63 | 1.83 | 1.97 | 2.06 |
| CAD | 1.94 | 1.84 | 2.08 | 2.39 | 2.77 |
| CHF | 0.16 | 0.14 | 0.17 | 0.23 | 0.17 |
| Other | 2.33 | 2.45 | 2.65 | 3.48 | 4.64 |

Source: own compilation based on data from the International Monetary Fund.

Over the past eight years, the composition of global foreign exchange reserves has shown continued dominance of the U.S. dollar, although its share has fallen from 65.36% in 2016 to 57.80% in 2024. The euro has remained relatively stable at around 20%, while the currencies of Western countries together account for more than 90% of global reserves. It is also worth noting the increase in the share of currencies such as the Japanese yen, the British pound, the Australian dollar, the Canadian dollar, and a basket of other currencies, including the South Korean won. Despite the renminbi being included in the Special Drawing Rights (SDRs) currency basket of the International Monetary Fund in 2016²¹⁶ and its growing role in Russia's monetary policy, this currency's share of global foreign exchange reserves stands at just 2.18%, having been in decline since 2022.

It does not appear that the risks associated with moving away from the euro and the U.S. dollar as a result of expropriating CBR assets would have a significant impact on the status of these currencies as global reserve assets. Presumably, such a decision would be taken by the G7 countries, which would involve confiscating Russian funds not only in European jurisdictions, but also in the U.S., Japan, the UK, and Canada.²¹⁷ The impaired credibility hypothesis would therefore affect more than 90% of the world's foreign exchange reserves. In the short to medium term, it is difficult for other countries to realistically find an alternative option. Each potential solution involves political and economic difficulties and is unrealistic.²¹⁸ In particular, the renminbi cannot develop into an international reserve currency without full capital account liberalisation. Countries will not hold reserves in Chinese currency if they cannot easily buy and sell it on international markets. This argument is supported by the history of the rise of the pound and the U.S. dollar as major international reserve currencies in the 20th century.²¹⁹ This seems to be a decisive issue, even when taking into account that limited access to Chinese capital markets could be partly offset by China's trade links when it comes to the international position of the renminbi.²²⁰

It has been suggested that expropriating CBR assets could deter third states from investing in the bonds of states that seize the assets.²²¹ Indeed, confiscating an aggressor state's reserves would send a strong warning to states considering aggressive actions that violate the norms of international law.²²² Such a step may entail risks for the states carrying out the confiscation, as it is inherently long-term in nature. Potential consequences include an increase in the yield

²¹⁶ International Monetary Fund, "IMF Adds Chinese Renminbi to Special Drawing Rights Basket," IMF News, 30 September 2016, www.imf.org. The SDR is a monetary unit used for international settlements. It is based on a weighted average of the following five currencies (as of 2022): USD—43.38%; euro—29.31%; renminbi—12.28%; yen—7.59% and pound—7.44%.

²¹⁷ It seems highly unlikely that a possible decision on the expropriation of CBR assets could be taken among the G7 without US participation. This could significantly raise the level of risk for the remaining Western currencies (shifts—*ceteris paribus*—in the equity market in favour of US debt securities).

²¹⁸ See P. Dzierżanowski, "Alternatives to the U.S. Dollar as a Global Currency Face Brick Walls," *PISM Bulletin*, no. 64 (2372), 18 April 2024, www.pism.pl.

²¹⁹ B. Eichengreen (et al.), "Is Capital Account Convertibility Required or the Renminbi to Acquire Reserve Currency Status?," *Banque de France Working Papers*, no. 892, November 2022, p. ii, www.publications.banque-france.fr.

²²⁰ China has set up a global settlement and payment network that allows international transactions to be conducted in renminbi across different countries. Swap lines between central banks are Beijing's key instrument in promoting renminbi invoicing. The People's Bank of China has entered into swap agreements with dozens of central banks, 31 of which are ongoing, totalling approximately 4.16 trillion CNY (around \$586 billion). These lines enable banks outside China to provide renminbi loans by intermediating funds through the national central bank, thereby offering liquidity under partial capital controls. See J. Johnson-Calari et al., "The 'Weaponisation' of Money: Risks of Global Financial Fragmentation," *Istituto Affari Internazionali*, 20 June 2024, p. 8, www.iai.it.

²²¹ *Ibidem*.

²²² Y. Ziskina, J. Firestone, T. Nesterchuk, *op. cit.*, p. 8.

of assets denominated in Western currencies. Some third countries are already signalling the possibility of retaliatory action in response to the potential confiscation of Russian assets. Saudi Arabia and China have suggested selling European bonds (including French bonds), which could lead to lower prices, higher yields, and increased foreign debt servicing costs.²²³

The magnitude of the impact of such a risk is difficult to assess, mainly due to the precedent-setting nature of the CBR asset case.²²⁴ According to research by Chatham House, even a small increase in the overall risk premium on G7 sovereign debt could have significant consequences. For example, a 5 basis-point increase on \$60 trillion of debt would result in an annual cost of \$30 billion. If this additional risk cost were to persist over an extended period, the total value of losses incurred could exceed the financial benefits of confiscating frozen CBR assets.²²⁵ Other analyses indicate that the U.S. confiscating CBR assets could result in a 60 basis-point increase in the interest rate on U.S. government bonds (assuming CBR access to U.S. financial markets is completely blocked). This would lead to higher interest payments that could exceed the value of the CBR assets within three years of confiscation.²²⁶ However, according to the Kyiv School of Economics (KSE), even if bond yields were to increase as a result of Russian asset seizures, the overall cost of financing and servicing public debt would remain manageable. The countries most at risk of negative market effects are France and Belgium. They exhibit characteristics that make them vulnerable to distortions in the sovereign debt market, such as high public debt as a percentage of GDP, high exposure to external market impulses (much of their debt is held by foreign investors) and vulnerability to retaliation (Euroclear, which holds the majority of EU-located CBR assets, is headquartered in Belgium).²²⁷ It is also worth emphasising that the European Central Bank has instruments to counter attacks on the debt markets of EU member states motivated by political considerations, in the short, medium and long term.²²⁸

Some experts contest arguments about the excessive costs associated with raising the yields of securities of countries that confiscate CBR assets, considering them to be of limited strategic and economic relevance. Firstly, the possible expropriation of CBR assets should be weighed primarily against the negative consequences of not confiscating them, such as the increased threat to Western states from Russia. Secondly, it is not possible to conduct a comprehensive assessment of the impact of the confiscation of Russian assets on public debt markets and future financing costs. The International Working Group on Russian Sanctions (operating under the auspices of Stanford University) highlights that the U.S. has previously confiscated the foreign exchange reserves of central banks in Iraq and Afghanistan without experiencing significant

²²³ "Billions on ice: What to do with Russia's frozen central bank money," Euronews, 18 March 2025, www.euronews.com.

²²⁴ Cf. e.g. N. Michelson, R. Stein, "Factors Explaining Long-Term Government Bond Yields in the OECD Countries," March 2023, www.papers.ssrn.com; A. Alfons et al., "The determinants of sovereign bond yield spreads in the EMU," European Central Bank, April 2015, www.ecb.europa.eu.

²²⁵ C. Butler, "Confiscating sanctioned Russian state assets should be the last resort," Chatham House, 1 May 2024, www.chathamhouse.org.

²²⁶ M. Minesso points out the following assumptions: Russia does not buy U.S. bonds, but only gold, which reduces the demand for U.S. bonds. This means an increase in interest rates, which has significant consequences for the country imposing sanctions. With U.S. government debt of \$26.5 trillion at the end of 2023, this could translate into higher interest payments of almost \$160 billion. See M. Minesso, *op. cit.*, p. 20.

²²⁷ B. Hilgenstock et al., "Implications of the Confiscation of Russian Sovereign Assets," Kyiv School of Economics Institute, April 2025, pp. 19–20, www.sanctions.kse.ua.

²²⁸ E.g. the Transmission Protection Instrument (TPI), which is one of the Governing Council's (the European Central Bank's decision-making body) tools for ensuring the effective transmission of ECB monetary policy. See European Central Bank, "Monetary policy decisions," 21 July 2022, www.ecb.europa.eu.

negative consequences.²²⁹ It should also not be ruled out that the confiscation of Russian assets could contribute to reducing the current upward pressure on European bond yields. The use of CBR funds to finance the planned increase in defence capabilities and support for Ukraine could reduce borrowing needs by up to around €230 billion. Consequently, the scale of debt issuance would be reduced.²³⁰

Another long-term risk related to the development of the renminbi as a reserve currency is that Russia and China (along with other BRICS+ countries) may speed up the development of an alternative/parallel settlement system to the current international financial architecture. They are taking steps in this regard, although the process remains at a relatively early stage. Article 63 of the Declaration of the 16th BRICS Summit in Kazan on 23 October 2024 states that the group's Interbank Cooperation Mechanism should focus on "supporting and expanding innovative financial practices and approaches to projects and programmes, including searching for acceptable financing mechanisms in local currencies."²³¹ However, at this stage, the Western financial infrastructure does not appear to be under threat from Chinese alternatives, which are supported by Russia and other partner states. Existing solutions have entrenched advantages, such as the ability to settle in multiple currencies, strong economies of scale, and network externalities (i.e. the greater the number of users, the lower the unit costs and the greater the ability to attract additional users).²³²

However, there are several important points to note. Firstly, Russia is intensifying its cooperation with so-called friendly states. According to the Russian Federation Government Decree of 20 September 2023, this category includes foreign countries that "may be allowed to participate in organised foreign exchange markets and in organised markets where contracts are concluded that constitute derivative financial instruments, the underlying asset of which is currency and/or interest rates."²³³ These include 40 countries (originally 32)—see the table below.

TABLE 2. COUNTRIES FRIENDLY TOWARDS RUSSIA

| | |
|--------------------------------|---|
| Former Soviet republics | Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan |
| Asian countries | Bangladesh, Bahrain, Cambodia, China (except Taiwan), India, Indonesia, Laos, Malaysia, Mongolia, Pakistan, Thailand, Vietnam |
| Other | Algeria, Argentina, Brazil, Cuba, Egypt, Ethiopia, Iran, Mauritius, Nigeria, Oman, Qatar, Saudi Arabia, Serbia, South Africa, Tunisia, Turkey, United Arab Emirates, Venezuela, |

Source: own compilation, based on the Decree of the Government of the Russian Federation of 20 September 2023 (as amended).

²²⁹ The International Working Group on Russian Sanctions, "Why and How to Confiscate Russia's Sovereign Assets to Help Rebuild Ukraine," *Working Group Paper*, no. 6, 11 October 2022.

²³⁰ B. Hilgenstock et al., *op. cit.*, pp. 11–12.

²³¹ XVI BRICS Summit, "Kazan Declaration. Strengthening Multilateralism for Just Global Development and Security," 23 October 2024, www.brics-russia2024.content.rcmedia.ru.

²³² J. Johnson-Calari et al., *op. cit.*

²³³ Распоряжение Правительства РФ от 20.09.2023 N 2530-Р "Об утверждении перечня иностранных государств, в которых зарегистрированы иностранные банки (иностраные кредитные организации), действующих от своего имени и за свой счет, и иностранные юридические лица, осуществляющие деятельность, аналогичную деятельности брокера, которые могут быть допущены к участию в организованных торгах иностранной валютой," www.normativ.kontur.ru.

Friendly states include those in the former Soviet bloc (including Central Asian states, as well as Azerbaijan, Armenia and Belarus), the BRICS+ (Brazil, China, India, Russia and South Africa, as well as Egypt, Ethiopia, Iran and the United Arab Emirates²³⁴), and selected states in the Middle East, Asia, Latin America and Europe (including Serbia and Turkey). This list is political in nature and largely corresponds to the list of allied, or at least neutral, states with regard to the armed conflict in Ukraine.

In line with closer cooperation with some of these countries, the Moscow Exchange began trading in exchange for the rouble with selected currencies in 2022 and 2023. Initially, these were the Armenian, Kyrgyz, Tajik, South African and Uzbek currencies, followed later by the Egyptian and UAE currencies. The use of the renminbi as the Russian Federation's key currency was also increasing. In 2022, the total trading volume of the RUB/CNY currency pair increased by more than 45 times compared to 2021.²³⁵

The shift towards friendly countries, involving the transformation of payment infrastructure and ongoing interaction and communication with foreign regulators, banks, and other market participants, has led to a significant change in Russia's currency structure for foreign trade settlements. In 2023, the share of the Russian rouble in export and import settlements with all partner countries (including currencies of friendly countries) increased significantly. Conversely, the share of currencies in these settlements from countries deemed unfriendly has plummeted, eliminating their dominance completely.²³⁶ Should CBR assets be expropriated, Russia's financial cooperation with friendly countries is expected to intensify.

It should be noted that Russia's ability to further diversify its reserve assets with the currencies and financial instruments of friendly countries is limited due to the associated risks. These currencies are characterised by high volatility and low market liquidity, and some of these countries apply capital controls. This makes these currencies and instruments unsuitable for creating foreign exchange reserves.

The immobilisation and potential seizure of CBR assets could encourage foreign exchange reserves to be relocated to politically-friendly countries, particularly among nations that are vulnerable to sanctions and for whom the Chinese currency is the main alternative.²³⁷ To some extent, the progressive division of the world into rival political and economic blocs may favour the rise of the renminbi as a reserve currency. One important reason for this is that developing countries' central banks want to diversify their foreign exchange reserves. This is partly due to the increasing use of the U.S. dollar as a foreign policy tool by the United States (known as the "weaponisation of the dollar"), and partly due to the use of other instruments of foreign economic policy. It remains to be seen how interested the allies will be in maintaining strong economic and financial ties with the U.S. The policies of the Trump administration, especially its trade policy decisions, may lead to a weakening of the U.S. currency.²³⁸ Previous research suggests that geopolitical motivations have also influenced many decisions to hold foreign exchange reserves (including US securities).²³⁹ Colin Weiss points out that approximately

²³⁴ P. Dzierżanowski, "BRICS+ Grows but Economic Cooperation Remains Limited," *PISM Bulletin*, no. 90 (2398), 24 June 2024, www.pism.pl.

²³⁵ Central Bank of Russia, *Annual Report 2022*, p. 248, www.cbr.ru.

²³⁶ *Ibidem*.

²³⁷ D. Skopiec, "Perspektywy renminbi jako waluty rezerwowej," *Obserwator Finansowy*, 18 March 2024, www.obserwatorfinansowy.pl.

²³⁸ E. Fishman et al., "How Trump Could Dethrone the Dollar," *Foreign Affairs*, 8 April 2025, www.foreignaffairs.com.

²³⁹ An example is Hubert Zimmerman's analysis of the Federal Republic of Germany's policy towards the United States between 1950 and 1971, where it is shown that West German monetary policy was significantly

55–60% of U.S. government assets have been purchased by countries that are politically and militarily aligned with the U.S. A further 15–20% of securities belong to countries that receive military aid from Washington.²⁴⁰

4.2. Retaliatory Measures Taken by Russia—Current and Future

In response to Western sanctions, including the immobilisation and potential expropriation of CBR assets, the Russian Federation is taking retaliatory measures. To this end, it has prepared legal instruments that directly or indirectly target the assets of private entities from “unfriendly” states (including, among other measures, the confiscation and forced sale of their assets).

TABLE 3. COUNTRIES UNFRIENDLY TO RUSSIA

| | |
|------------------------|--|
| Europe | European Union Member States, Albania, Andorra, Iceland, Liechtenstein, Monaco, Montenegro, North Macedonia, Norway, San Marino, Switzerland, Ukraine and the United Kingdom |
| Other countries | Australia, Canada, Japan, Micronesia, New Zealand, Singapore, South Korea, Taiwan, USA |

Source: own compilation, based on the decree of the Government of the Russian Federation of 5 March 2022²⁴¹

Russia has announced a list of 48 unfriendly states, including members of the European Union, the United States, the United Kingdom, and their allies and partners. The relevant decree refers to Decree No. 142 of the President of the Russian Federation, dated 5 March 2022 “On the temporary order of fulfilment of obligations towards certain foreign creditors.” This defines a list of foreign countries and territories that “take hostile actions against the Russian Federation, Russian legal entities and individuals.”²⁴² This is crucial for taking appropriate retaliatory measures against individuals and entities from these states. The decree also formed the basis for the Bank of Russia’s Board of Directors’ decision to introduce special “C” accounts (banking, deposit and brokerage accounts). The purpose of these accounts is to prevent residents of unfriendly countries from taking money and assets out of Russia. The list of permitted transactions on such accounts is limited. Since funds from the sale of companies and shares, as well as securities and all related distributions, are deposited into “C” accounts, and since loans and credits from residents to non-residents must be repaid into these accounts, foreign owners may have to invest these funds in Russian government bonds, as this is one of the few investment options available to them. These accounts could hold up to RUB 1 trillion (\$11–13 billion) in 2023. It cannot be ruled out that these revenues could be used to compensate resident investors whose funds were frozen in foreign jurisdictions.²⁴³

The Russian state apparatus carries out the expropriation of assets belonging to natural or legal persons from unfriendly states in three ways: by introducing regulations against business owners; by issuing court decisions ordering the return of assets allegedly acquired through

constrained by strategic commitments to the US and other allies. See H. Zimmerman, *Money and Security: Troops, Monetary Policy and West Germany's Relations With the United States and Britain, 1950–1971*, Cambridge: Cambridge University Press, 2002, p. 4.

²⁴⁰ C. Weiss, “Geopolitics and the US Dollar’s Future as a Reserve Currency,” *International Finance Discussion Papers*, no. 1359, October 2022, www.federalreserve.gov.

²⁴¹ Decree of the Government of the Russian Federation of 5 March 2022, No. 430-p, www.static.government.ru.

²⁴² *Ibidem*.

²⁴³ А. Иртыго, “Что такое счета типа ‘С’ и зачем их ввели,” 5 April 2023, www.conomy.ru.

illegal privatisations; and by forcing sales.²⁴⁴ To this end, the Russian authorities have adopted dozens of acts or draft acts that provide a legal framework for taking action against entities from unfriendly countries.

One of these key acts is the Russian Federation Government Decree of 6 March 2022 No. 295,²⁴⁵ which imposes significant restrictions on the ability of entities from unfriendly countries to sell assets in Russia. Such transactions require the approval of the government commission for the control of foreign investment, and for amounts above RUB 50 billion, the approval of the President of the Russian Federation is also required. On the other hand, they impose significant financial burdens on such entities, including taking into account a discount of at least 60% of the assets' market value and paying a 35% sales tax on the assets sold.

Another important piece of legislation is the 25 April 2023 Decree of the President of the Russian Federation No. 302 on the temporary management of certain assets.²⁴⁶ It allows the Russian authorities to confiscate property belonging to Western entities, which could be widely applied in the event of a possible decision by Western states to expropriate CBR assets.²⁴⁷

A special regulation was adopted by Russia in relation to the U.S., which took the most far-reaching legislative action to allow the confiscation of CBR assets (cf. Chapter 3). This is the Decree of the President of the Russian Federation dated 23 May 2024.²⁴⁸ It permits the use of U.S. property based within the Russian Federation to offset the losses incurred from the seizure of Russian assets in the United States. According to the Decree, the seizure may concern movable or immovable property belonging to the U.S. or its citizens, securities, or shares in the share capital of Russian legal entities belonging to the U.S. or its citizens. This indicates that Russia is prepared to confiscate the assets of any country that expropriates CBR funds.

TABLE 4. EXAMPLES OF EXPROPRIATION OF WESTERN COMPANIES

| Projects | Western companies: | Notes: |
|---------------------------|------------------------------------|--|
| Sakhalin-1 and Sakhalin-2 | Shell (UK) – 27.5% | Compensation – \$1.2 billion |
| | Exxon (USA) – 30% | Full expropriation without compensation |
| | Mitsui & Co and Mitsubishi (Japan) | They have maintained a stake in the projects |

Source: own compilation.

²⁴⁴ S. Djankov, A. Golovchenko, "Expropriation, Russian style," CEPR, 24 January 2025, www.cepr.org.

²⁴⁵ Decree of the Government of the Russian Federation of 6 March 2022 No. 295 on Approval of the Rules of the Governmental Commission for Control over the Implementation of Foreign Investment in the Russian Federation on Authorisation of the Implementation (Execution) of Transactions (Operations) of Residents with Foreign Persons to Implement Additional Temporary Measures of an Economic Nature to Ensure Financial Stability of the Russian Federation, and Amendments to the Rules of the Governmental Commission for Control over the Implementation of Foreign Investment in the Russian Federation, www.publication.pravo.gov.ru.

²⁴⁶ Decree of the President of the Russian Federation of 25 April 2023 No. 302, www.publication.pravo.gov.ru.

²⁴⁷ The decree provisions have been used sporadically. For example, an interim administrator was introduced in the case of the German company Uniper, whose subsidiary Unipro was placed under state management. Unipro operates five power plants in Russia with a combined capacity of over 11 gigawatts. See "Russia takes over of Uniper subsidiary," Reuters, 26 April 2023, www.reuters.com.

²⁴⁸ Decree of the President of the Russian Federation of 23 May 2024, No. 442, www.publication.pravo.gov.ru.

With regard to action against companies from unfriendly countries, the Russian authorities have applied three different solutions, some of which are partly or entirely politically motivated. In the case of ExxonMobil, a U.S. company, the Russian state treasury took over the company's shares in the Sakhalin-1 project (worth more than \$4 billion) by presidential decree, transferring them to a Russian operator controlled by Rosneft, without compensation. British Shell lost its 27.5% stake in the Sakhalin-2 project but received compensation for it, while Japanese companies retained a minority stake in the projects they were involved in.²⁴⁹

Another example of Russian retaliation against private entities can be seen in the St. Petersburg and Leningrad Oblast Arbitration Court's ruling on 18 May 2024 to seize the assets of three European banks—UniCredit, Deutsche Bank, and Commerzbank—worth more than €700 million. RusChemAlliance, a subsidiary of Gazprom, had demanded that the banks pay bank guarantees related to a contract with the German company Linde for the construction of a gas processing plant in Ust-Luga. Following Linde's suspension of work due to EU sanctions, RusChemAlliance requested that the banks fulfil their obligations. However, the banks refused, citing the risk of sanctions violations. The Russian court's seizure of the banks' assets is a reaction to their attempts to withdraw from operations in Russia in the face of increasing international sanctions.²⁵⁰

By contrast, the so-called Lugovoy law is an example of a regulation that has disadvantaged international companies already in existence before 2022 and which Russia could also apply in the event of CBR funds being confiscated. This law permits disputes that should be settled by international arbitration tribunals to be transferred to the jurisdiction of the Russian Federation based on a unilateral declaration of intent by a Russian entity subject to restrictions, including sectoral sanctions. This arbitration procedure clause also applies to existing agreements which designate international arbitral tribunals as competent to resolve disputes.²⁵¹ If Russia were to increase its use of this measure following the confiscation of CBR assets by other states, the recovery of debts from Russian companies by Western counter-parties would be hindered and would depend on the decisions of Russian courts, which are not independent.

It should also be noted that, in addition to the current legislation, the Russian authorities are working on further solutions. In February 2025, the government commission on legislative affairs approved a draft law prepared by the Ministry of Justice of the Russian Federation. This introduces a mechanism for confiscating foreign assets, including both state and private assets.²⁵² The document amends the Code of Arbitration Procedure, as well as the laws "On Assessment Activities" and "On Enforcement Proceedings." The Ministry of Justice developed the draft in response to U.S. plans to seize CBR assets. According to the draft, the Russian Federation or the CBR will be permitted to participate in the proceedings, and countries deemed unfriendly will be permitted to act as defendants. The cases will be heard by the Arbitration Court of the Moscow Region. The court will have the right to request from the

²⁴⁹ R.X. Zahralddin-Aravena, "The Emerging Indirect Expropriation Strategy under Russian Sanctions, Tax, and Bankruptcy Laws," 14 September 2023, www.businesslawtoday.org.

²⁵⁰ Business & Human Rights Resource Centre, "Russian court seizes over €700 million assets from UniCredit, Deutsche Bank & Commerzbank as part of lawsuit over gas project halted by sanctions," 18 May 2024, www.business-humanrights.org.

²⁵¹ An example is the case of Uraltransmash's dispute with the Polish company PESA. Its lawsuit went to the Supreme Court of Russia after three instances of domestic arbitration courts rejected the complaint, finding that the company was allowed to participate in the proceedings before the Stockholm Arbitration Court despite the sanctions. See I. Wiśniewska, "Biznes w Rosji – arbitraż krajowy zamiast międzynarodowego," *Analizy OSW*, 16 December 2021, www.osw.pl.

²⁵² "Власти одобрили механизм конфискации зарубежных активов в России," RBC, 3 February 2025, www.rbc/ru.

government a commission and on its own initiative a list of assets located on Russian territory that may be seized.

The current situation is having a direct impact on the operations of Western companies in Russia. While most have considered winding down amid Western sanctions and the war in Ukraine, this is complicated and costly due to legal and political constraints in the Russian Federation. According to the Kyiv Economic Institute, 467 companies had completely withdrawn from Russia by 24 February 2022. These companies generated revenues of \$105 billion in 2021, representing 32.8% of the total revenues of foreign companies in Russia, and paid approximately \$6 billion in taxes, accounting for 23.3% of all taxes paid by companies before 2022. Meanwhile, more than 1,300 companies have announced plans to withdraw from the Russian market. However, this process has not yet been completed: some have sold some of their assets, started bankruptcy procedures, or faced the nationalisation of their assets. In total, only 11.5% of multinationals have completely exited the Russian market. Around 33.5% have ceased operations or announced plans to do so, while 55% of companies remain present in Russia.²⁵³

According to KSE data, the value of assets belonging to foreign companies that remained on the Russian market by the end of 2023 was approximately \$190 billion (including \$131 billion belonging to G7 countries). It is not reasonable to assume that there could be a complete or significant expropriation of Western assets. This would conflict with Russia's long-term interests, as it would require foreign investors (including Western ones) to return after the war in Ukraine ends. The implementation of widespread, repressive retaliatory measures could discourage investors from re-entering the Russian market.²⁵⁴

²⁵³ Kyiv School of Economics, "Over 160 international companies left Russia in 2024," 8 January 2025, www.kse.ua.

²⁵⁴ B. Hilgenstock et al., *op. cit.*, p. 5.

5. THE POSSIBILITIES OF JUSTIFYING THE EXPROPRIATION OF CBR ASSETS FROM AN INTERNATIONAL LAW PERSPECTIVE

Stefania Kolarz

5.1. Application of Countermeasures

In order to convince other states of the legality of the CBR's expropriation, G7 states may attempt to present it as a remedy, i.e. a response to Russia's flagrant violation of international law²⁵⁵ by ceasing to perform their obligations towards it, including respecting its immunity.²⁵⁶ The rules for the application of remedies are set out in Articles 49–52 of the Articles on the Responsibility of States for Internationally Wrongful Acts,²⁵⁷ which are considered by numerous states and experts, as well as by the International Court of Justice and many national courts, to generally codify international customary law and thus clarify the norms that are binding on all states.²⁵⁸ According to the Articles, an aggrieved state may take remedies against a state in breach of international law for the sole purpose of compelling it to comply with its obligations. In addition, it should give notice to the state against which it intends to take such a measure and ensure that it is proportionate to the scale of the violation committed.

The obvious party entitled to apply countermeasures is Ukraine, but its allies, including G7 members, may also do so collectively. This possibility is indicated by international jurisprudence (e.g. the ICJ judgment in *Gambia v. Myanmar*),²⁵⁹ the practice of states (such as the U.S., UK and France in response to Iraq's attack on Kuwait in the 1990s).²⁶⁰ and expert opinion. In order to justify the collective application of countermeasures by G7 members, it is necessary to invoke Russia's breach of the obligations it has towards the international community as a whole (i.e. of *an erga omnes* nature),²⁶¹ for example the peaceful settlement of disputes or the prohibition of the aggression it has committed. An additional argument in favour of countermeasures is also a major change in the situation of third countries, especially European ones. Russia's

²⁵⁵ I. Wiśniewska, *The EU's decision...*, *op. cit.*

²⁵⁶ D. Franchini, "Ukraine Symposium," *op. cit.*

²⁵⁷ cf. Article 22 of the Articles on the Responsibility of States for Internationally Wrongful Acts, Annex to UN General Assembly Resolution 56/83 of 12 December 2001, as amended.

²⁵⁸ Articles on the Responsibility of States for Internationally Wrongful Acts, Annex to UN General Assembly Resolution 56/83 of 12 December 2001, as amended.

²⁵⁹ See e.g. F.I. Paddeu, C.J. Tams, "Encoding the law of State responsibility with courage and resolution: James Crawford and the 2001 Articles on State Responsibility," *Cambridge International Law Journal*, vol. 11, no. 1, 2022, pp. 21, 23; F.L. Bordin, "Reflections of Customary International Law: The Authority of Codification Conventions and ILC Draft Articles in International Law," *International and Comparative Law Quarterly*, vol. 63, no. 3, 2014, p. 538. As for the position of the ICJ and national courts, see e.g. C.M.J. Ryngaert, D.W.H. Siccama, "Ascertaining Customary International Law: An Inquiry into the Methods Used by Domestic Courts," *Netherlands International Law Review*, vol. 65, no. 1, 2018, pp. 10–11. The aforementioned document is considered to be a "general codification" of customary law norms, because some of its provisions raise doubts among some states. A full analysis of the content of customary law norms would, however, require tracing the long-term practice of states and their opinions on individual principles of international responsibility, which goes beyond the scope of this report.

²⁶⁰ M. Mills, T. Poston, O.A. Hathaway, *op. cit.*

²⁶¹ Y. Ziskina, J. Firestone, T. Nesterchuk, *op. cit.*, p. 7.

²⁶² Cf. M. Mills, T. Poston, O.A. Hathaway, *op. cit.* This follows not directly from the provisions which deal with remedies, but from Article 42 of the Articles on Responsibility of States for Internationally Wrongful Acts, which provides that international responsibility for violations may also be claimed by a group of states—including the state directly affected by the violation—or by the international community as a whole, if the violation particularly affects that State or is of such a nature that it radically alters the position of all other States vis-à-vis that obligation in terms of its future enforcement.

full-scale aggression against Ukraine has affected their security and forced them to significantly increase their defence spending, especially since, for example, from 2022 onwards there have been incidents of missiles falling on Polish or Romanian territory, posing a direct threat to their populations. Opponents of the approach allowing for collective countermeasures in the common interest warn against using such a possibility in bad faith and escalating mutually-imposed measures.²⁶² Given Russia's actions to date, however, it can be argued that such concerns should not be the determining factor in considering countermeasures against an aggressor, as Russia itself acted in bad faith in starting and escalating the conflict.

A second potential obstacle when attempting to justify the expropriation of CBRs on the basis of remedies is the purpose of their application. Remedies are traditionally used to compel a state to comply with international law, rather than, for example, to obtain compensation from the state, which serves to restore the state of affairs prior to the violation of that law.²⁶³ They should therefore be temporary and reversible,²⁶⁴ which is problematic in the case of expropriation.²⁶⁵ Admittedly, it is reversible (as is property damage), but it is rather intended to have a permanent effect. Nevertheless, there are arguments permitting such an action here too. Developments in customary international law are beginning to extend the aforementioned classic purpose of the application of remedies—to compel the cessation of violations—to secure compensation for the State affected by them.²⁶⁶ In this context, the use of expropriated assets becomes particularly relevant. According to Article 49(3) of the Articles, the use of remedies should be reversible “as far as possible,” which could be a gateway to confiscation and transfer of assets to Ukraine, as such an action is always reversible (possibility of making a reverse transfer), although economically non-viable as in most cases it will entail repayment with interests. A safer approach is therefore to use the assets in a way that facilitates eventual repayment, e.g. to secure claims against Russia, instead of using them for the reconstruction of Ukraine.

5.2. Acting in Self-defence

Expropriation for the purpose of assisting Ukraine defending itself against aggression could be justified as collective self-defence,²⁶⁷ as referred to in Article 51 of the UN Charter, and furthermore Article 21 of the Articles on the Responsibility of States for Internationally Wrongful Acts. According to the UN Charter, an attacked state has the right to individual or collective self-defence before the UN Security Council takes the measures necessary to maintain international peace and security. States taking them must notify the UNSC immediately and must not violate its competence to maintain or restore international peace and security. In the situation at hand, however, it is unlikely that the UNSC will take any action, as Russia has a veto right in the UNSC and will therefore block any decision contrary to its interests. Therefore, the use of collective self-defence would be all the more possible because there is no prospect that the Security Council will take the measures necessary to maintain international peace and security. Furthermore, self-defence in accordance with the UN Charter can only be applied during the course of the aggression and must be necessary and proportionate.²⁶⁸

²⁶² M. Mills, T. Poston, O.A. Hathaway, *op. cit.*

²⁶³ L. Dubois, S. Fleming, *op. cit.*

²⁶⁴ D. Franchini, “Immobilised Assets...,” *op. cit.*

²⁶⁵ M. Mills, T. Poston, O.A. Hathaway, *op. cit.*

²⁶⁶ *Ibidem.*

²⁶⁷ D. Franchini, “Immobilised Assets...,” *op. cit.*

²⁶⁸ European Parliament, “Legal options...,” *op. cit.*, p. 31.

These prerequisites would also rather remain fulfilled in the present situation. First of all, despite the ongoing peace talks, Russia continues its attacks on Ukraine. The assessment of the necessity of such action remains less clear. While depriving Russia of access to funds is necessary to prevent them from being used to continue the aggression, the task is already fulfilled by freezing the CBR's assets. What the asset freeze alone has failed to enforce is the cessation of attacks on Ukraine. However, it seems that the assessment of the fulfilment of this premise should be assessed together with the requirement of proportionality of action. In the light of the estimated amount of losses suffered by Ukraine, the controversy is not in doubt, especially as the confiscation of CBR funds would be applied after the prior freezing of assets thus graduating the level of pressure exerted on Russia. Since the aggressor has not succumbed to this, it can be argued that it needs to be increased, which could be done, *inter alia*, through expropriation.

Compared to remedies, self-defence is so much more convenient to use as a basis for expropriation that in its case there is no requirement of reversibility of action.²⁶⁹ Yet another doubt arises in the context of self-defence: whether expropriation—which does not involve the use of coercion or armed force—will still fit into the category of self-defence.²⁷⁰ Although self-defence is indeed associated with the use of force and its forms are narrowed down to it by many experts,²⁷¹ given the objectives and principles of international law, which allows the use of force only as a last resort, the use of softer measures should not be excluded in this context. The permissibility of expropriation as a means of self-defence for G7 members may also be deduced from other provisions of the UN Charter. First and foremost, Articles 41 and 42 indicate that even the UNSC should first use measures that do not require the use of armed force; the latter is only used when others prove inadequate. In this context, it therefore seems fair to assume that self-defence that does not require the use of armed force should be permissible.

At the same time, states supporting Ukraine should take precautionary steps (e.g. making a declaration indicating that their actions are being taken in relation to the damage suffered as a result of the Russian attack) so that a joint invocation of self-defence is not construed as being at war with Russia.

5.3. Treating Russia as a State Sponsor of Terrorism

Another route to expropriating the CBR could be to declare its assets to be linked to terrorist activities. In addition to attacks on Ukraine, including in particular its population and civilian infrastructure, calculated to intimidate this population and put pressure on the authorities, Russia supports terrorist regimes and organisations elsewhere. It has furthermore carried out attacks on foreign countries, such as on Sergei Skripal in the UK in 2018, and blew up an ammunition depot in Czechia in 2014, which makes it all the more justifiable to be seen by Ukraine as a terrorist state (which it already does) and its allies. Recognising Russia as a sponsor of terrorism would allow it to be expropriated in some jurisdictions, for example the US and Canada.²⁷² However, there is a lack of uniformity in the EU and its member states to take such action.

²⁶⁹ P. Butchard, *op. cit.*, p. 68.

²⁷⁰ D. Franchini, "Immobilised Assets...", *op. cit.*

²⁷¹ European Parliament, "Legal options...", *op. cit.*, p. 31.

²⁷² European Parliament, "Legal options...", *op. cit.*, p. 15.

At the national level, the parliaments of some EU countries (Poland, Czechia, the Baltic republics) or their chambers have already adopted resolutions declaring Russia a terrorist state, a sponsor of terrorism or describing its regime as terrorist. This was also the tone of, among others, former President of the European Council Charles Michel, who referred to Russian actions as “geopolitical terrorism.”²⁷³ In a resolution of 23 November 2022²⁷⁴ the European Parliament recognised Russia as a state sponsoring terrorism and using terrorist means, and at the same time called on the EU and its member states to develop an EU legal framework to recognise a state as a sponsor of terrorism and using terrorist means, and then consider recognising Russia as such.²⁷⁵ However, the Parliament’s demand has not yet been implemented and, moreover, neither Russia nor the CBR is on the EU’s list of terrorists, which includes individuals, groups and entities associated with terrorism.²⁷⁶ While such a broad inclusion theoretically creates the possibility of including a state, let alone its central bank, on this list, the 2001 Council Regulation on specific restrictive measures directed against certain persons and entities with a view to combating terrorism²⁷⁷ only provides for the freezing of assets, not the expropriation of listed entities. Thus, while the mere linking of Russia to acts of terrorism in political statements is quite common, EU law lacks mechanisms that would link such a qualification of Russia to the possibility of expropriation of the CBR.

In the context of the possibility of expropriating an entity linked to terrorist activities, the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (the Warsaw Convention), also signed by the EU and ratified by its states,²⁷⁸ is often cited. Its text explicitly obliges states to introduce appropriate measures (legislative or otherwise) in their national orders to enable the confiscation of assets used to commit certain crimes, including those of a terrorist nature, and obliges states to cooperate in this regard. Nevertheless, expropriation of Russia on its basis will also be problematic. Firstly, Russia’s immunity may be an obstacle. The wording of the Warsaw Convention does not specify who can be a sponsor of terrorism, which on the one hand creates space for such a qualification of a state, but on the other hand makes it difficult to hold it accountable, as it does not refer to the application or not of its immunity.²⁷⁹ Although Russia remains bound by the Convention,²⁸⁰ this cannot be interpreted as a waiver of its immunity, as a waiver of this privilege must be expressed explicitly.²⁸¹

5.4. Other Potential Bases from International Instruments

The expropriation of the CBR without respecting Russia’s immunity may be attempted to justify the application of the doctrine of *necessity* as set out in Article 25 of the Articles on Responsibility of States for Internationally Wrongful Acts. An action taken by a state under the

²⁷³ 1 March 2022 during an extraordinary debate on the Russian aggression against Ukraine in the European Parliament.

²⁷⁴ “European Parliament resolution of 23 November 2022 on recognising the Russian Federation as a state sponsor of terrorism,” www.europarl.europa.eu.

²⁷⁵ *Ibidem*, para. 2.

²⁷⁶ Council of the European Union, “Sanctions for Terrorism,” www.consilium.europa.eu.

²⁷⁷ Council of the European Union, “Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, consolidated text,” www.eur-lex.europa.eu.

²⁷⁸ Council of Europe, “Chart of signatures and ratifications of Treaty 198,” www.coe.int.

²⁷⁹ European Parliament, “Legal options...,” *op. cit.*, p. 42.

²⁸⁰ Council of Europe, “Chart of signatures...,” *op. cit.*

²⁸¹ European Parliament, “Legal options...,” *op. cit.*, p. 44.

influence of necessity is not unlawful when that state demonstrates that it was the only option to protect its vital interests against a serious and imminent threat and would not thereby seriously harm the vital interests of the state harmed by such action or of the international community as a whole. In this case, the justification would be the need to effectively deprive Russia of the means with which it could finance the continuation of its aggression (risk of non-renewal of sanctions in the form of a freeze), which is in the interests not only of the expropriating state but also of the international community as a whole. This is an additional basis which can be used to strengthen the case for expropriation by invoking, for example, countermeasures.

Other grounds can be found in acts adopted at the Council of Europe level. The political will to do so was demonstrated by its Parliamentary Assembly in Resolution 2539 (2024) on support for the reconstruction of Ukraine, indicating that “frozen Russian state financial assets must be made available for the reconstruction of Ukraine. States holding these assets should cooperate and transfer them to the international compensation mechanism. [...] the time has come for Council of Europe member states to move from sanctions to remedies” and emphasised that they do not violate the sovereign immunity of the state.²⁸² Although the content of the resolution refers to international law, it does not in itself provide a legal basis for expropriation, and it is therefore necessary to refer to specific Council of Europe conventions. In this context, the most intuitive basis would be the confiscation of the means of perpetration permitted under the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism.²⁸³ the Convention obliges states to adopt the necessary legislative (or other) measures to confiscate the means of perpetration²⁸⁴ and to provide legal assistance to each other in this regard.

In view of the mass export of Ukrainian children to Russia,²⁸⁵ another basis for Russia's expropriation could also potentially be Article 15(4) of the Convention on Action against Trafficking in Human Beings,²⁸⁶ under which States shall take such legislative or other measures as may be necessary to guarantee reparations to victims of trafficking in persons and suggests that they establish victim compensation funds, which could be financed by assets obtained from the confiscation of instrumentalities or proceeds of offences of trafficking in persons and counterfeiting or supplying false identity documents.²⁸⁷

Similarly, in view of the environmental damage resulting from the Russian attack on Ukraine, the grounds for expropriation can also be found in the Convention on the Protection of the Environment through Criminal Law.²⁸⁸ The Convention explicitly obliges states to adopt grounds for confiscation of the means of committing the offences defined therein and the proceeds thereof, although it allows states to make reservations in this regard.²⁸⁹

²⁸² Parliamentary Assembly of the Council of Europe, “Resolution No 2538 (2024) Support for the reconstruction of Ukraine,” para 6, www.pace.coe.int.

²⁸³ “Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done at Warsaw on 16 May 2005.”

²⁸⁴ *Ibidem*, Article 2(1).

²⁸⁵ Cf. M. Piechowska, “Russia Continues to Illegally Transfer Ukrainian Children,” *PISM Bulletin*, no. 180 (2299), 30 November 2023, www.pism.pl.

²⁸⁶ “Council of Europe Convention on Action against Trafficking in Human Beings, done at Warsaw on 16 May 2005.”

²⁸⁷ *Ibidem*, Article 23(3).

²⁸⁸ Council of Europe, “Convention on the Protection of the Environment through Criminal Law,” *European Treaty Series*, no. 172, 4 November 1998, www.rm.coe.int; M. Piechowska, “Ukraine Faces Long-Term Environmental Consequences of Russian Aggression,” *PISM Bulletin*, no. 165 (2284), 14 November 2023, www.pism.pl.

²⁸⁹ Council of Europe, “Convention on the Protection...,” *op. cit.*, Article 7.

Although the aforementioned acts allow for the possibility of expropriation, the issue of their effective application against Russia is questionable, as the wording of the Convention suggests their application primarily to be non-state actors. The acts do not indicate whether a state may commit violations that lead to expropriation, although they do not explicitly exclude the possibility. This leaves room for states to attempt to hold Russia accountable on this basis, particularly through extrajudicial means, but the chances of doing so are slim; their effect will be limited by Russia's immunity, as expropriation will be carried out by state parties to these conventions rather than an international tribunal.

TABLE 5. POSSIBLE LEGAL BASES FOR EXPROPRIATION OF CBR ASSETS

| Proposed solution | Legal system | Advantages of the solution | Potential difficulties |
|---|--|---|--|
| Expropriation as a countermeasure | international | <ul style="list-style-type: none"> – justifiable breach of immunity – possibility of collective application by G7 members – possibility of the transfer of funds for the rearmament of Ukraine | <ul style="list-style-type: none"> – the requirement of reversibility – financial risk – possibility of the transfer of funds for the reconstruction of Ukraine |
| Expropriation as an exercise of collective self-defence | international | <ul style="list-style-type: none"> – justifiable breach of immunity – possibility of collective application by G7 members – no requirement for reversibility of action – possibility of the transfer of funds for the rearmament of Ukraine | <ul style="list-style-type: none"> – the possibility of invoking self-defence without the use of armed force – the risk of Russia recognising that the states applying it are at war with it – possibility of the transfer of funds for the reconstruction of Ukraine |
| Expropriation as a necessity | international | <ul style="list-style-type: none"> – justifiable breach of immunity – no requirement for reversibility of action – possibility of the transfer of funds for the rearmament of Ukraine | <ul style="list-style-type: none"> – demonstration of proportionality of the measure (proving that the freeze is insufficient) – possibility of the transfer of funds for the reconstruction of Ukraine |
| Expropriation as a sanction against a sponsor of terrorism or perpetrator of other violations | Council of Europe, as well as national (USA, Canada) | <ul style="list-style-type: none"> – the possibility of coordinated use by G7 members – no reversibility of action – possibility of the transfer of funds for the reconstruction of Ukraine | <ul style="list-style-type: none"> – the risk of a breach of immunity and a successful appeal by Russia – possibility of the transfer of funds for the rearmament of Ukraine |

Source: own elaboration.

6. POTENTIAL WAYS OF EXPROPRIATING RUSSIAN ASSETS

Szymon Zaręba

6.1. Direct Confiscation and Transfer to Ukraine

The most obvious and simple method of expropriating CBR assets would seem to be their direct confiscation, either by individual states acting alone or in coordination with one another, followed by their transfer to Ukraine. In this case, proper preparation of the action from a domestic perspective would be crucial, as would be finding an appropriate legal basis from the perspective of international law.

At a national level, a major constraint is the political will of individual countries,²⁹⁰ which would be more eager to act if as many of them as possible took identical actions.²⁹¹ This is one of the reasons why the G7 members, including the EU as a whole, are attempting to find common solutions. Involving as many G7 countries as possible would also greatly reduce the risk of adverse economic consequences, such as a large-scale sale of a particular country's currency or bonds. At the same time, a legal basis would need to be created for expropriating assets and carrying out enforcement, i.e. the actual seizure of assets. An assessment of the compatibility of the various options with national regulations would require an analysis of their compatibility with the constitution and other legal acts in each expropriating state. This is beyond the scope of this paper.

Nevertheless, the possibility of expropriating state assets has only been provided for in a few countries. As mentioned in Chapter 3, legislation allowing the outright confiscation of Russian state assets has only been adopted in the U.S. so far. The REPO for Ukrainians Act allows for the seizure of these assets, either wholly or in part, and their transfer to a special fund created under the Act. From there, the assets could be transferred directly to Ukraine or to an international body or mechanism set up to compensate Ukraine.²⁹² It should also be noted that the U.S. Foreign Sovereign Immunities Act (FSIA) and Terrorism Risk Insurance Act (TRIA) further prevent states recognised by the U.S. as sponsors of terrorism from invoking immunity in legal proceedings. However, Russia currently has no such status in the U.S.,²⁹³ although the Senate has urged the U.S. Secretary of State to recognise it as a state sponsor of terrorism.²⁹⁴ The chances of this happening under the current administration at the moment are slim. Even if this were to happen, it should be emphasised that Ukrainian citizens would still be required by law to file massive lawsuits against Russia in U.S. courts.

The possibility of expropriating CBR assets under domestic legislation also theoretically exists in Canada. The C-19 Budget Implementation Act allows for the seizure of the assets of entities subject to Canadian sanctions, and the Russian central bank is one such entity. Furthermore, the Special Economic Measures Act (SEMA) introduced the possibility of seizing state assets in the event of serious violations of international peace and security, or gross and systemic human rights violations committed by another state.²⁹⁵ However, the applicability of these

²⁹⁰ T. Khutor, A. Mikheiev, *op. cit.*, p. 13.

²⁹¹ "How will Russia's frozen assets be used to help Ukraine?," Reuters, 21 May 2024, www.reuters.com.

²⁹² P. Butchard, *op. cit.*, pp. 80–81.

²⁹³ US Department of State, "State Sponsors of Terrorism," www.state.gov.

²⁹⁴ US Congress, "S.Res.623—A resolution calling on the Secretary of State to designate the Russian Federation as a state sponsor of terrorism," 27 July 2022, www.congress.gov.

²⁹⁵ Y. Ziskina, J. Firestone, T. Nesterchuk, *op. cit.*, p. 9.

provisions to Russian state assets has sparked controversy within the expert community and inspired policymakers to propose further legal changes, which remain, to date, unfinished (see Chapter 3).

However, the mere adoption of national legislation allowing for the confiscation of CBR assets will not solve the problem of its legality at the international level,²⁹⁶ mainly because of the CBR's immunity under that law. The most secure solution at this level would be to abrogate the protection guaranteed to the CBR by Russia's immunity, by amending customary international law to limit the scope of state immunity. For example, it should not apply in cases where it violates *jus cogens* norms. However, this is problematic for practical and political reasons. Not only would it require a change in practice, which would occur if the CBR's assets were seized, but also a change in opinion among states regarding the scope of this immunity. To establish such a change in opinion, broad support would need to be expressed, for example at the UN General Assembly (UNGA) in accordance with the *Uniting for Peace* procedure, which allows the General Assembly to take over the Security Council's competence when it fails in its duty to maintain peace and security,²⁹⁷ or an appropriate multilateral agreement would need to be adopted with as many parties as possible.²⁹⁸ However, obtaining the required two-thirds majority in the UNGA is unlikely, as opposition to limiting immunity protection could be underpinned by the fear of setting a dangerous precedent for a large group of states. Therefore, it would be more advisable to look for clearly one-off solutions.

Therefore, the possibility of confiscation on the basis of the concept of countermeasures discussed earlier is much more practical and feasible.²⁹⁹ A broad justification would then be necessary for the seizure of Russian state assets, detailing which norms of international law relevant to the international community as a whole (*erga omnes*) were violated by Russia's aggression against Ukraine. Given the peculiarities of this solution, which presupposes action based on the principle of proportionality and focuses on coercing the state in breach of international law to fulfil its obligations, it would be sensible to support the idea of carrying out any expropriations gradually, in stages, rather than all at once.³⁰⁰ This is particularly important until the war in Ukraine ends, as it is this concept that can best be defended from the perspective of these two factors. Russia would then need to be informed that, as long as hostilities continue, its state immunity will no longer be respected and CBR funds will be irreversibly transferred to Ukraine on a regular basis (ideally monthly) to cover the costs of armaments it is buying. This would mean that the sooner Russia ends its aggression, the fewer funds belonging to it would be transferred—there would be a clear, direct relationship between the two. As already indicated, the application of countermeasures should only be reversible “to the extent possible”—and it seems that this condition would be met after the adoption of the mechanism in question, as its application would prevent the return of funds already confiscated (otherwise, the solution itself would not create pressure sufficient to the scale and gravity of Russia's violations of the international legal order). As soon as hostilities ceased, the G7 countries could begin to respect state immunity again for the entire remaining,

²⁹⁶ J. Liboreiro, “‘Make Russia pay’: EU moves ahead with confiscation of frozen assets, despite legal pitfalls,” Euronews, 30 November 2022, www.euronews.com.

²⁹⁷ T. Khutor, A. Mikheiev, *op. cit.*, pp. 16–17.

²⁹⁸ E. Kaca, “Opportunities for the EU to use Russian assets to rebuild Ukraine,” *PISM Bulletin*, no. 59 (2178), 15 May 2023, www.pism.pl.

²⁹⁹ See also, for example, P. Zelikow, “A Legal Approach to the Transfer of Russian Assets to Rebuild Ukraine,” *Lawfare*, 12 May 2022, www.lawfaremedia.org.

³⁰⁰ A completely different view is taken by L.C. Buchheit, P. Stephan, in “The REPO Act: Confiscating Russian State Assets and Ukrainian Reparations,” *Lawfare*, 7 July 2023, www.lawfaremedia.org—but they use arguments that are not very concrete, without reference to legal norms explicitly indicated in the present report.

non-transferred amount of CBR assets, eliminating the need for Ukraine to incur new arms expenditure. There would then appear to be no need to return amounts already transferred to Ukraine, since the entire mechanism is based on the assumption that the sooner Russia ceases hostilities, the sooner the depletion of CBR assets will stop. However, it would be much less appropriate to use the assets confiscated on these grounds to reconstruct Ukraine or settle its reparation claims, as this would remove the element of forcing a state in breach of international law to fulfil its obligations.

An alternative solution could be to carry out confiscations based on the principle of collective self-defence. This would require Ukraine's allies to inform the UN Security Council that they intend to expropriate CBR assets in order to support Ukraine, whose independence and territorial integrity are still under threat from Russian aggression. In this case, there would be no concern about the possible need to reverse the action taken. It should also be noted that the requirements of necessity and proportionality would be met, as stronger measures against CBR assets would be justified by Russia's failure to cease hostilities following their initial freeze. Furthermore, the use of a non-violent measure would appear to be a legitimate form of collective self-defence, in line with the UN's fundamental principle of resolving disputes peacefully. When non-violent methods of pressure exist, it is appropriate to use them to restore peace.

6.2. Payment of Compensation Awarded by International Courts and Tribunals

Another basis for expropriation would be seizing CBR funds to pay reparations awarded by international courts. Ukraine brought cases relating to the war before several international courts, including the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), the Permanent Court of Arbitration (PCA) and the European Court of Human Rights (ECHR). Numerous complaints were also brought to the ECHR by Ukrainian citizens. Ukraine has also consented to the jurisdiction of the International Criminal Court (ICC)³⁰¹ and later became the party to the court. Work is also underway to establish a Special Tribunal for the Crime of Aggression against Ukraine.

The advantage of this solution is that it allows reliance on the judgment of a recognised international court or tribunal as the basis for enforcement against the defendant state's assets. In this case, it is worth noting that state immunity, which is generally given precedence over the obligation to enforce the judgments of international courts, is unlikely to apply. This is because immunity is intended to protect states from undue interference by other states, in accordance with the principle of sovereign equality, rather than from interference by international courts. At least two cases in international jurisprudence can be identified in which attempts were made to enforce judgments awarded by international tribunals, and immunity was not considered an obstacle to enforcement. The first is the *Corfu Channel* case (UK v Albania), in which the ICJ ordered Albania to pay damages to the UK, which the UK could have recovered from Albanian property had it been within the UK's territory. The other case is *Socobel v Greece*, in which Socobel obtained an arbitration tribunal award granting compensation, and then Belgium brought a case on Socobel's behalf before the Permanent Court of International Justice, which was successful. This enabled Socobel to obtain the requisite amount from Greek assets located in Belgium.³⁰²

³⁰¹ Cf. S. Zareba, "Fighting for justice. Ukraine's legal steps in defence against Russian aggression," *PISM Policy Paper*, no. 3 (211), 7 June 2022, www.pism.pl.

³⁰² European Parliament, "Legal options..." *op. cit.*, pp. 35–36.

Finally, this solution also enables expropriations to be carried out in order to compensate not only the Ukrainian state for damages incurred, but also individuals and other affected entities, provided they obtain a judgment awarding them an appropriate amount.

The specific difficulties involved depend on each individual court or tribunal. In the case of the ECHR, for example, there would be very serious time constraints. The CBR's assets could only be confiscated to pay damages awarded in judgments within the ECHR's temporal jurisdiction over Russia, which was expelled from the Council of Europe on 15 March 2022. According to the ECHR's 22 March 2022 resolution on the interpretation of Article 58 of the European Convention on Human Rights, 16 September 2022 should be considered the end of this jurisdiction. The resolution makes it clear that the Court can only accept and hear complaints against Russia relating to acts and omissions committed before this date.³⁰³ This means that the vast majority of the destruction and damage suffered by Ukrainian citizens and businesses would not be compensable.

The second problem is that the waiting time for judgments by the ECHR awarding compensation to Ukraine in interstate cases against Russia, or to Ukrainian citizens (there are cases of both types before the Court), can be as long as several years. Also, the damages awarded by the Court are usually relatively small (e.g. a few thousand euros per victim³⁰⁴), and therefore not always commensurate with the damage suffered. Moreover, such compensation would only cover the harm and damage suffered by individual victims, and would not allow for the rearmament or reconstruction of the Ukrainian state, e.g. public infrastructure.

A third problem is procedural: how would states transfer funds to the relevant affected persons or entities? Experts indicate that this would probably require rulings by national courts.³⁰⁵ However, they suggest that in some states (for example Cyprus, Spain, Italy and the UK), ECHR judgments would be treated as a matter for the foreign state and would require an *exequatur* (permission to enforce them domestically). In others, where the European Convention on Human Rights is treated as equal to or superior to domestic law, they would be treated as domestic law and directly enforceable by national courts.³⁰⁶ The situation could be different in non-European countries, such as the U.S.³⁰⁷ Nevertheless, a key issue in the event of confiscations being ordered by the courts would be their contradiction of Russia's enforcement immunity, as discussed in Chapter 2. The only way to circumvent this problem would be to transfer funds without the involvement of the judiciary, for example through administrative decisions, because, as already mentioned, there are grounds to consider such solutions as not contradicting state immunity. This would, however, probably require changes to national legal systems to allow for such solutions.

³⁰³ "Resolution of the European Court of Human Rights on the consequences of the cessation of membership of the Russian Federation to the Council of Europe in light of Article 58 of the European Convention on Human Rights," 22 March 2022, www.echr.coe.int.

³⁰⁴ In the case of individuals and compensation for non-material damage (e.g. loss of health, life) the amount of damages depends on a number of factors (e.g. type, scale, place of violation)—according to external analyses, albeit from a few years ago, in the cases involving Russia it was on average €13,500 for violations of mental and physical integrity, in the cases involving Ukraine it was about €9,600, cf. V. Fikfak, "Damages for pain and suffering before the European Court of Human Rights," European Human Rights Advocacy Centre, 26 March 2019, www.ehrac.org.uk. Compensation for material damage (e.g. destruction of property) should in principle be reimbursed in the amount of the damage suffered, cf. Department for the Execution of Judgments of the European Court of Human Rights, "Article 41 of the European Convention on Human Rights," www.coe.int.

³⁰⁵ V. Fikfak, "Expert Remarks Debate on Compensation Under International Law with a Focus on Options for Enforcement of Payments Awarded by International Human Rights Courts," CAHDI Meeting, 11 April 2024, www.rm.coe.int.

³⁰⁶ *Ibidem*.

³⁰⁷ Potential problems are highlighted in: European Parliament, "Legal options..." *op. cit.*, p. 37.

The situation is no less complicated for the other courts. The ICJ has one pending case, *Ukraine v. Russia*, in which Ukraine expects the tribunal to rule that, contrary to what Russia claimed when it initiated its aggression in 2022, at the time there were no acts of genocide committed in Ukraine's Luhansk and Donetsk regions. Ukraine hopes that the ICJ will rule this justification for the aggression as unfounded, that Russia will guarantee it will not use force in Ukraine under this false pretext again, and that the ICJ will order full compensation for all damages caused by actions taken on this false basis.³⁰⁸ While a ruling in Ukraine's favour is likely, an award of damages equivalent to Ukraine's expectations is much less realistic. Should this occur, the ICJ's ruling could provide a solid foundation for seizing the CBR's assets, given the court's unquestionable status as the foremost authority in adjudicating interstate disputes and as one of the UN's leading bodies. It should be Ukraine itself which should then seek enforcement of the judgment through the confiscation of CBR assets in individual countries, rather than its citizens, because the judgment is not necessarily considered a basis for claims by individuals or companies—such is the jurisprudence of US courts, among others.³⁰⁹ The main disadvantage of this solution, as with other cases based on a court judgment, is the waiting time for a ruling, which can be several years.

There are two cases pending before the ITLOS. The first one is *Ukraine v. Russia*, concerning the detention of the Ukrainian warships *Berdyansk*, *Nikopol* and *Yani Kapu*, together with their crews, by Russia in 2018. It should be noted that, after nearly six months, Russia complied with the court's order to return the vessels,³¹⁰ rendering the case essentially irrelevant. The case has been referred to the Permanent Court of Arbitration (PCA), but it is not expected to award significant sums in Ukraine's favour, similar to other PCA proceedings concerning coastal state rights over the Black Sea coast, the Azov Sea and the Kerch Strait.

The question also arises as to whether it would be possible to use the judgments of the ICC, which can award compensation to victims from its Victims Fund, as a basis for the confiscation of CBR assets. The problem is that, due to their criminal law nature, proceedings before this court cannot take place in the absence of the accused (*in absentia*).³¹¹ Meanwhile, the chances of apprehending those currently being prosecuted by the ICC, such as President Vladimir Putin³¹² or Generals Sergei Shoigu and Valery Gerasimov,³¹³ are slim, and proceedings before this court against the individuals themselves take at least several years. Therefore, it can be anticipated that a favourable ICJ verdict would have been delivered earlier. Even if this had not been the case, the CBR's assets would still have had to be confiscated by states themselves, based on national procedures, and the funds paid into the Victims Fund. This is because there is no direct legal link between the named individuals and the CBR. The legal issues would therefore be the same as those involved in unilateral confiscations under domestic law and this option should be considered unfavorable in many respects. Moreover, given the critical approach of the current US administration to the activities of the ICC, it would be difficult to

³⁰⁸ International Court of Justice, "Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (*Ukraine v. Russian Federation*)," 26 February 2022, p. 16, www.icj-cij.org.

³⁰⁹ European Parliament, "Legal options..." *op. cit.*, p. 37.

³¹⁰ Ministry of Foreign Affairs of Ukraine, "Comment of the Ministry of Foreign Affairs of Ukraine on Russia's return of three Ukrainian naval vessels 'Nikopol,' 'Berdyansk' and 'Yani Kapu' to the custody of Ukraine," 18 November 2019, www.mfa.gov.ua.

³¹¹ I.V. Massimino, "The ICC and in-absentia proceedings: Finding a response to the difficulties of executing arrest warrants," *ESIL Reflections*, vol. 13, no. 9, 2024, www.esil-sedi.eu.

³¹² S. Zaręba, "ICC Issues Arrest Warrant for Vladimir Putin," *PISM Spotlight*, no. 15/2023, 20 March 2023, www.pism.pl.

³¹³ A.M. Dwyer, S. Zaręba, "ICC Issues Arrest Warrant for Gens. Shoigu and Gerasimov," *PISM Spotlight*, no. 41/2024, 26 June 2024, www.pism.pl.

expect the United States to be willing to use this path. It should also be noted that Article 79(2) of the Rome Statute of the ICC, under which the Court operates, grants the Court the ability to order the transfer of money and any other property obtained through fines or forfeiture of property to the Fund for Victims. However, Article 77 of the Statute suggests that this only applies to funds belonging to individuals convicted by the Court, “without prejudice to the rights of bona fide third parties.”³¹⁴ In practice, therefore, there is no scope for such an order to be made against CBR assets.

As for the Special Tribunal for the Crime of Aggression against Ukraine, on 9 May representatives of the EU and more than 30 countries involved in the initiative to establish it adopted the Lviv Statement confirming the completion of work on the necessary legal instruments.³¹⁵ It is to be established at the Council of Europe based on an agreement between this organisation and Ukraine and is likely to begin work in 2026. The costs of its operation will be covered by the participating countries on the basis of a separate agreement. Unfortunately, there is no publicly-available detailed information on whether and to what extent the tribunal will be able to award compensation to victims of Russian aggression, but this does not seem to be a priority for the negotiating countries, which rather envisage entrusting this role to a separate body that has yet to be established, the Claims Commission.³¹⁶ Regardless, it can be assumed that it would issue its first judgments much later than most of the international courts analysed above.

6.3. Payment of Damages Awarded by the International Claims Commission

Another idea for utilising CBR assets would be to hand them over to an international commission that would be specifically created to verify compensation claims relating to the war in Ukraine, determine the extent of the damage caused and order compensation from these assets. Calls for the establishment of such a mechanism came from various sources, including the President of Ukraine in his proclamation to international partners on 20 May 2022,³¹⁷ the General Assembly in its resolution ES-11/5 on 14 November 2022,³¹⁸ the Committee of Ministers of the Council of Europe in its resolution on 12 May 2023,³¹⁹ and the Parliamentary Assembly of the Council of Europe in its Resolution 2539 (2024) on 16 April 2024.³²⁰

In May 2023, the Council of Europe partially responded to these calls by creating the Register of Damage. This registry is intended to be the first element of a future compensation mechanism, which would also include a claims commission to adjudicate damages and a compensation fund to pay them.³²¹ The registry accepts claims submitted to it, maintains a catalogue of these claims and conducts preliminary assessments to determine whether they should be subject to further analysis and adjudication by a future commission. The register considers, among

³¹⁴ “Rome Statute of the International Criminal Court, done at Rome on 17 July 1998,” OJ 2003.78.708.

³¹⁵ A. Perun, V. Smilianets, “Europe throws support behind Ukraine special tribunal to prosecute Russia,” Reuters, 9 May 2025, www.reuters.com.

³¹⁶ See: Delegation of the European Union to the Council of Europe, “A major step towards holding Russia accountable for its war of aggression against Ukraine,” 27 February 2025, www.eeas.europa.eu.

³¹⁷ T. Khutor, A. Mikheiev, *op. cit.*, p. 14.

³¹⁸ UN General Assembly, “Furtherance of remedy and reparation for aggression against Ukraine,” Resolution A/RES/ES-11/5, 14 November 2022, www.digitallibrary.un.org.

³¹⁹ P. Butchard, *op. cit.*, p. 78; European Parliament, “Legal options...,” *op. cit.*, p. 38.

³²⁰ Parliamentary Assembly of the Council of Europe, “Resolution no 2538 (2024) Support for the reconstruction of Ukraine,” www.pace.coe.int; P. Butchard, *op. cit.*, p. 84.

³²¹ Council of Europe, “The Board of the Register of Damage for Ukraine holds its inaugural meeting,” press release, 14 December 2023, www.coe.int.

others, claims regarding harm to individuals, loss of property and revenue, damage to critical infrastructure and government facilities, and damage to historical, cultural and environmental heritage. Since 2024, informal talks have been underway on establishing a Claims Commission, and at the end of March 2025, representatives of more than 50 states and the Council of Europe decided to start formal negotiations on a treaty that would establish it.³²²

One advantage of the solution involving an international commission is that a large number of complaints could be handled relatively quickly thanks to the simplified administrative procedure (although compensation payments would still be much slower than the transfer of CBR funds from the G7 countries directly to Ukraine's government, which could then distribute them to the victims). There would also be a clear benefit in alleviating objections to respecting state immunity in relation to CBR assets. Confiscation carried out in connection with the commission's relevant decisions would probably not violate this immunity, as it would be based on executive rather than judicial acts.³²³ However, it would require enforcement in individual states, again without the involvement of the courts. Additionally, any remaining funds in its account—in the unlikely event that the sum of claims is less than the amount of frozen assets—would have to be returned to their original deposits where they were placed after being immobilised.³²⁴ Such a solution would prevent allegations of the arbitrary seizure of Russian property. It would also be advisable to stipulate in the document establishing with the commission that it should first settle the claims of Ukraine, its citizens, and its entities (rather than foreign investors, for example) in order to enable the swift reconstruction of the country.³²⁵

The commission would also have the advantage of a multilateral status, resulting from its establishment through an international agreement or resolution of an international organisation. This would give it greater legitimacy in the eyes of third countries than unilateral steps would have had. How it would be perceived would largely depend on finding an appropriate legal basis for its functioning. Similar bodies have been established in two ways in the past. The first model involved the creation of a commission through an international agreement between a group of states, following the armed defeat of an aggressor state and the victorious states' de facto possession of the property of the aggressor.³²⁶ The second model involved the creation of a fund comprising the aggressor state's resources, with an associated claims commission disposing of these funds established through the adoption of a UN Security Council (UNSC) resolution.³²⁷ In the case of the war in Ukraine, neither of these solutions is likely to be applied.

³²² Register of Damage for Ukraine, "Formal Negotiations Begin on Treaty to Establish a Claims Commission for Ukraine," 26 marca 2025, www.rd4u.coe.int.

³²³ See P. Butchard, *op. cit.*, p. 84; The International Institute for Strategic Studies, "On Proposed Countermeasures Against Russia to Compensate Injured States for Losses Caused by Russia's War of Aggression Against Ukraine," 20 May 2024, pp. 13, 21; European Parliament, "Legal options..." *op. cit.*, p. 40. The Parliamentary Assembly, in turn, at www.pace.coe.int, indicates that the possible payment of compensation from such seized assets would be justified as a countermeasure and would not be open to challenge from the perspective of international law norms on state immunity—but the application of countermeasures entails the negative consequences discussed in the relevant earlier subsection of the report (i.e. the countermeasures must be reversible, if possible), so it is not an appropriate solution here.

³²⁴ O. Corten et al., "Open letter by international lawyers and practitioners," www.assets.bwbx.io.

³²⁵ T. Khutor, A. Mikheiev, *op. cit.*, p. 15.

³²⁶ This was the case with the reparations agreement signed in Paris in 1946, on the basis of which the Allies seized German private and public property in their territories, among other things, for the purpose of obtaining reparations from these assets.

³²⁷ European Parliament, "Legal options..." *op. cit.*, p. 39. In 1991, the UNSC established a corresponding fund to settle Kuwait's compensation claims against Iraq. The UN Compensation Commission, which was established at that time and managed it, processed some 2.7 million claims amounting to some \$350 billion, awarding nearly 1.5 million claimants from the fund's accumulated resources of some \$52 billion.

Russia is not likely to be defeated militarily, and given its veto power in the Security Council, the establishment of a possible UNSC resolution fund administered by the commission would require its consent.

An alternative solution could be to create a fund and commission based on a United Nations General Assembly resolution, acting in an extraordinary session, according to the procedure set out in the resolution “Uniting for Peace.”³²⁸ In such cases, the UNGA may recommend that all necessary measures be taken (except for coercive measures)—including the establishment of such bodies. Adoption of the resolution would require extensive diplomatic efforts to secure a two-thirds majority in the UNGA—the likelihood of success would depend on persuading some developing countries to support it. While this would certainly be more challenging than persuading them in 2022 to vote in favour of a general resolution supporting the potential establishment of a compensation mechanism, if successful, it would have the advantage of virtually eliminating any controversy surrounding this step and the expropriation of CBR assets. However, as mentioned above, currently countries supporting Ukraine are rather in favour of establishing such a commission under the auspices of the Council of Europe. This is a moderately optimal solution, but much easier in practice and definitely better than unilateral steps.³²⁹ For political reasons, any commission would have to be established in the same way as the Register of Damage mentioned above, i.e. via an international agreement supported by a majority of Council of Europe members and with the option for non-European countries to participate (known as an “enlarged partial agreement”).

The compensation mechanism would require assets to be transferred to a common fund, which would be managed by a commission acting on the basis of either a multilateral treaty or a resolution. As most states do not have the legal means to confiscate Russian state assets directly, this option would require them to adopt domestic legislation highlighting the specific circumstances of their seizure.³³⁰ However, it seems equally possible to oblige states to transfer CBR funds to the fund already within the treaty establishing this fund (in the case of an agreement among Council of Europe members)—the difference being that ratification by individual states would probably be required. This could be a more straightforward solution from a domestic political standpoint in certain countries, as parliamentary discussions regarding the fund would address not only the confiscation of CBR assets, but simultaneously the participation in providing Ukraine with reconstruction funds or compensation for war victims. Additionally, in certain countries, international law takes precedence over national law, so including this solution in the treaty would provide a direct legal basis for confiscating assets.

A slight modification to the discussed proposal could be the issuance of reparation bonds by Ukraine that would enable the accelerated acquisition of funds even before the commission’s decision to award reparations. These could be secured by Ukraine’s claims for reparations to be paid by Russia.³³¹ Such bonds would only become payable when a payment by Russia is made. Although the holders of these bonds would not have a direct claim to a portion of the frozen Russian state assets, the funds could be used if Russia refuses to pay the reparations.

³²⁸ Cf. R. Tarnogórski, “The Question of Russian Aggression against Ukraine at the UN,” *PISM Spotlight*, no. 36/2022, 3 March 2022, www.pism.pl and subsection 6a of this report.

³²⁹ Cf. e.g. Y.M. Ziskina, “The REPO Act: Confiscating Russian State Assets Consistent with U.S. and International Law,” *Lawfare*, 12 October 2023, www.lawfaremedia.org, where the argument is made that a compensation mechanism could be invoked as one form of countermeasures outside the UN system.

³³⁰ New Lines Institute, “Multilateral Action Model on Reparations,” October 2022, p. 23, <https://newlinesinstitute.org>.

³³¹ H. Dixon, “Breakingviews: Reparation bonds could unlock \$300 billion for Ukraine,” *Reuters*, 15 January 2024, www.reuters.com.

According to the originators of the idea, the funds would be transferable to creditors once the sums due to Ukraine have been adjudicated by a legitimate compensation mechanism, such as a commission. However, this solution would essentially shift the economic risk of complications regarding the payment of compensation by Russia, and its possible refusal to pay, onto Western states,³³² as they would probably be the only buyers of such bonds. Therefore, it would only seem appropriate if Russia officially agreed to pay reparations, for example, during ongoing peace negotiations.

6.4. Using CBR Assets as Collateral for Loans or Bonds

Another solution, which has been considered by the European Commission and proposed by UK Secretary of State for Foreign Affairs David Cameron in March 2024,³³³ is to use frozen Russian state assets as collateral to raise funds for military support or the reconstruction of Ukraine. This could enable Ukraine to obtain a loan at a favourable interest rate or issue bonds at a significantly lower interest rate than the current market rate. This would result in much better financial terms of borrowing than in the case of bonds or loans without such collateral.

A widely emphasised positive aspect of such an arrangement would be that CBR assets could potentially be used in the described manner without transferring ownership. For example, it would be sufficient for them to be transferred to government trust accounts in individual countries (e.g. at central banks for non-eurozone countries and at the European Central Bank for eurozone countries), or to a single joint trust account set up by the countries concerned. The assets would remain Russian property, simply deposited elsewhere, until they are unfrozen, for example. This would mean that there would be no compatibility issues with customary international law norms on state immunity, for example.

Proponents of this option also emphasise that the ability to enforce debt using CBR assets would significantly reduce the risks for lenders or bond buyers associated with Ukraine's high credit risk.³³⁴ The only remaining risk would be the possibility of successful legal action by Russia,³³⁵ for example before national courts in Belgium or other countries holding CBR assets.

However, the problematic issue remains that providing collateral would significantly reduce lenders' or debt buyers' risk only if there was a real possibility of satisfying claims from the immobilised assets. The relevant states would therefore still need to implement legal arrangements allowing them to expropriate the necessary amounts from Russian state assets, declare their intention to do so in case of need, and be prepared to do so in future. As demonstrated earlier, the U.S. is currently the only G7 member with such legal arrangements, and it is unclear whether there is the political will to carry out confiscation in that country.

Another challenge is establishing the basis on which expropriation of Russian funds to service Ukraine's debt would occur. One solution to this dilemma would be for Ukraine to formally pledge its claim for war damages against Russia, i.e. its right to claim money from Russia for the

³³² Cf. "How will Russia's frozen..." *op. cit.*, Reuters, 21 May 2024, www.reuters.com.

³³³ P. Butchard, *op. cit.*, p. 78.

³³⁴ In August 2024, it was rated by international agencies as a "restricted default" (by Fitch) or "selective default" (by Standard & Poor's).

³³⁵ The authors of the proposal therefore suggest ensuring that the relevant international body first awards reparations to Ukraine. In doing so, they suggest the UN General Assembly as the most appropriate, cf. H. Dixon, *op. cit.* However, it is questionable whether it would be politically easier to get some developing countries to agree to give Ukraine a multi-billion dollar reparation in a predetermined amount—rather than setting up an entire international mechanism to pay it in parts according to the claims made, as proposed above in this analysis.

damage it caused to its citizens and businesses. Ukraine could pledge this claim to a syndicate of countries, who would then provide it with a favourable syndicated loan in return.³³⁶ This proposal is based on the assumption that Ukraine is undoubtedly entitled to compensation from Russia under international law (the question is rather what the amount should be), so it can already dispose of the claim.³³⁷ If Russia refuses to pay the compensation, the creditor states could use the frozen assets of the CBR to repay the loan to Western states. The rationale for doing so would be the general legal principle that a creditor controlling a debtor's assets can deduct unpaid debt from them. Joint lending by a larger group of countries would be relevant in this case, given that the vast majority of the CBR's assets are in Belgium which would have to shoulder the largest burden if the money were lent bilaterally to Ukraine. Therefore, an appropriate clause in the agreement between the states and Ukraine should stipulate that the debt burden be shared, with the states more committed financially being later able to recover the funds from Russian assets located in Belgium. This would have the advantage of shifting the legal responsibility for seizing CBR assets onto Ukraine.

6.5. Treating CBR Assets as Collateral for Reparation Payments under a Future Peace Agreement

One solution that has been widely discussed in recent months is to use frozen Russian state assets as collateral for the payment of reparations under a future peace agreement, or for Russia's compliance with such an agreement. In effect, this would make the assets a kind of a hostage. Under this proposal, the countries in which the CBR's assets are held would make the return of these funds conditional upon the Russian government agreeing to pay post-war reparations. If this agreement was not reached, the funds would continue to be held under the existing terms. According to proponents of this concept, Russia could, after a certain period of time, be faced with a choice between returning to normal relations and maintaining sanctions, and agree to relinquish ownership of assets that it is unlikely to recover anyway.³³⁸

This solution would not require any resolutions to be adopted by international bodies, nor would it involve expropriation, so it would not risk violating norms on state immunity. It would therefore completely eliminate legal risks and pose no serious economic risks. However, its biggest drawback is that it essentially means a continuation of the status quo, and therefore an extension of the freeze on CBR assets. It is therefore a conservative step, the only positive effect of which is that the G7 countries can continue to use the interest on these funds to repay their loans to Ukraine under the ERA programme.

³³⁶ Proposal by US President Joe Biden's Deputy National Security Advisor for International Economics D. Singh, L. Buchheit, professor of international law and expert on sovereign debt issues, and former editor of the Financial Times newspaper, H. Dixon, cf. "How will Russia's frozen...", *op. cit.*; H. Dixon, "How a syndicated loan can funnel cash to Ukraine," Reuters, 26 February 2024, www.reuters.com.

³³⁷ H. Dixon, "Breakingviews," *op. cit.*

³³⁸ P. Stephan, "Response to Philip Zelikow: Confiscating Russian Assets and the Law," Lawfare, 13 May 2022, www.lawfaremedia.org.

TABLE 6. POTENTIAL FUTURE SCENARIOS FOR CBR ASSETS, RANGING FROM THE MOST TO THE LEAST CONTROVERSIAL

| Scenario | The main challenges of implementing the scenario |
|---|--|
| Direct confiscation | <ul style="list-style-type: none"> – requires coordination among G7 members to limit economic impact – requires the amendment of the national laws of most G7 members – abrogation of the protection afforded to CBR assets by sovereign immunity is required through one or more of the following: <ul style="list-style-type: none"> (a) using the Uniting for Peace resolution: a two-thirds majority of UN members is needed (b) as a countermeasure: an appropriate design of a measure is necessary to preclude the requirement of reversibility and indicate the seriousness of violations of the international order that it seeks to address (c) as a collective self-defence measure: a declaration of action in collective self-defence to the UN Security Council is necessary, and a possible confrontational Russian response to this step might follow (though unlikely) |
| Payment of damages awarded by an international claims commission | <ul style="list-style-type: none"> – the need for a commission to be set up by as many states as possible, to give it legitimacy – the need of the creation of a fund from which the commission would allocate resources – disbursement of funds requiring decisions ordering the payment of damages, probably faster than judgments of international court but slower than administrative confiscation – the need to adopt regulations enabling the transfer of funds to the commission/fund without the involvement of national courts, or to include such a solution in the treaty establishing the commission |
| Payment of damages awarded by international courts and tribunals | <ul style="list-style-type: none"> – limited possibilities of obtaining reparation awards outside of a few tribunals (ICJ and ECHR) – payment would require judgments awarding damages, which could take several years – procedural issues specific to each tribunal – the need to adopt rules allowing the transfer of funds on the basis of an international tribunal judgment without the involvement of national courts |
| Use of CBR assets as collateral for loans or bonds | <ul style="list-style-type: none"> – a measurable reduction in risk for lenders or debt buyers only possible if there is a real prospect of satisfying claims on the encumbered assets – requires a change in the national laws of most G7 members, as well as a willingness to waive the protection afforded to CBR assets by sovereign immunity, in the same way that direct confiscation would require |
| Treating CBR assets as collateral for reparation payments under a future peace agreement | <ul style="list-style-type: none"> – requires setting a time limit within which it can be conclusively determined that Russia has refused to pay reparations, after which the confiscation of CBR assets should follow – in the event of a clear refusal by Russia to pay reparations or a lapse of a sufficiently long period of time, there would be a need to reopen the discussion on how to use the CBR assets anew |

CONCLUSIONS AND RECOMMENDATIONS

Russia began systematic preparations to increase its economic and financial resilience as early as 2014. This was a response to growing political tensions and imposed international sanctions, but probably also a preparation for a future escalation of the conflict with the West. A key element of this strategy was to reduce the role of the US dollar in the foreign exchange reserve structure, while increasing renminbi and gold purchases. In 2022, the Central Bank of Russia held a significant amount of assets in Western jurisdictions, although the value of these assets was lower than that conducted in line with previous strategies prior to 2014. The freezing of these assets by the G7 countries at the end of February 2022 made it measurably more difficult to shape Russian monetary policy and assist Russian commercial banks. However, determining the amount of CBR funds deposited with individual G7 members poses difficulties and hinders the expert and policy debate on next steps in relation to them. It would therefore be advisable for G7 members to disclose the real volumes of blocked assets identified through the activities of national authorities and the G7-appointed REPO group.

The outbreak of war was met with a relatively swift and decisive response from the G7 countries with regard to Russian state reserves. As early as 26 February 2022, the G7 countries agreed to freeze CBR assets under their jurisdiction and block transactions undertaken by it. All G7 members adopted legal measures freezing CBR reserves deposited in Western financial institutions, mainly in currencies and securities, preventing their transfer to Russia or other countries. However, the debate on the permanent seizure of CBR assets needs to be revitalised—the best initiator may be the European Union, where the bulk of these funds are located. EU countries must also be prepared for the eventuality that some members of the G7 express reluctance to confiscate CBR assets, and it is necessary to act in a smaller group than all members of the group. First, moreover, it would be advisable to build a consensus within the EU, especially among the EU institutions, among which the President of the European Council António Costa and the EU High Representative for Foreign and Security Policy Kaja Kallas, but not the President of the European Commission Ursula von der Leyen, are in favour of expropriating Russian assets. Subsequently, it seems advisable for the EC to convince further EU members of the need to take action to secure the broadest possible agreement at the level of the Council, whose unanimous decision is needed to tighten sanctions against the CBR, including its expropriation. It is also recommended to act in cooperation with supporting countries, especially Canada and the UK. The arguments that might convince states hostile to the expropriation of Russian state assets are, in addition to considerations of equity, the reduction of costs incurred by European states in arming and rebuilding Ukraine, and the deterrent nature of such action, which would also serve to discourage other states from possible future violations of international law.

The arguments against the expropriation of CBRs raised in the EU relate primarily to the certainty of financial trading and legal concerns. An important group of arguments against the expropriation of CBR assets relates to a potential breach in the protection of third countries' assets, which is at the heart of the international financial system and could undermine the credibility of the US dollar and the euro as a reserve currency. However, the expropriation of CBR assets by Western countries is not expected to have a significant impact on the credibility of the euro area and the US dollar. Both of these currencies maintain a dominant position in global foreign exchange reserves, also acting as safe haven and reserve currencies, so no significant changes in this regard in the short to medium term are expected. In the case of the confiscation of Russian assets by the G7 countries, it is worth noting that their combined

share of global reserves is over 90%, indicating continued stability and confidence in these currencies despite potential tensions over their use in international politics. On the other hand, it should not be ruled out that the possible confiscation of CBR assets will increase the risk for countries taking such action, leading to an increase in their government bond yields. Assessing the magnitude of this risk is difficult, mainly due to the precedent-setting nature of the CBR asset case, however, in the case of the European Union, the ECB has the tools to respond to such situations.

While in the short to medium term there is no viable alternative option to the international financial architecture established after the Second World War; in the longer term Russia, in cooperation with China, may seek to create an alternative financial system. While the full realisation of this objective faces a number of difficulties (including the limited ability of the renminbi to achieve safe haven currency status), the first steps in this direction have already been taken—initiatives within BRICS+, as well as China's actions, provide the basis for further development of such a system. Its construction may be facilitated by the progressive division of the world into rival political-economic blocs. Russia, in response to sanctions such as the freezing of its assets and the possibility of their confiscation, is already taking retaliatory measures that include, among other things, expropriating the assets of Western entities located on the territory of the Russian Federation. In the event of possible confiscation of assets, the CBR is determined to further intensify its actions, including the total confiscation of assets of European companies. However, it seems inadvisable to make the decisions of states in spheres as important as the maintenance of an international order based on international law and security considerations contingent on the risks that may be borne by some private investors who, against compelling circumstances, did not terminate their activities in Russia after the outbreak of aggression.

From a legal perspective, CBR assets are treated as state property. Under international law, the protection afforded to it is fragmented and derived partly from customary law (notably state immunity norms) and partly from international agreements. The assets of a sanctioned state are protected by immunity under international law even when they are in the possession of the sanctioning state. It thus provides Russian assets with strong protection. At the same time, many states are also obliged to comply with this immunity on the basis of, among other things, their constitutional provisions as binding international law. Thus, a change in legislation at the national or even EU level would not be sufficient to carry out an expropriation in line with international law. For the abrogation of the protection guaranteed to the CBR by Russia's immunity, a change in customary international law limiting a state's immunity would be most beneficial, e.g. in cases where it violates peremptory norms (*jus cogens*), such as the prohibition of aggression. However, such a change would require the unanimous will of the vast majority of states, which would then start applying the newly created norms—the chances of this are limited. By contrast, standards adopted by the WTO, IMF, Council of Europe or the EU do not constitute a serious limitation on the confiscation of CBR assets. It is therefore advisable for the G7 countries to put forward expropriation of CBRs as a countermeasure, i.e. to respond to Russia's flagrant violation of international law by ceasing to fulfil its obligations towards such a state, including respecting its immunity. Ukraine is primarily entitled to apply countermeasures, but its allies, including G7 members, may also do so collectively. International jurisprudence and the practice of states and opinions of legal doctrine point to this possibility. However, the use of remedies should be reversible as far as possible. Expropriation for the purpose of assisting Ukraine defending itself against aggression could also be justified as an action of collective self-defence, in accordance with the relevant provisions of the UN Charter. In some legal systems, such as the US and Canada, expropriation of Russia would also be possible if it

were deemed a sponsor of terrorism. However, there are no uniform solutions in the EU and its member states that would allow for such action.

In doing so, the expropriation of CBR assets does not have to be carried out by using only one legal basis or for a single purpose, e.g. the reconstruction of Ukraine or the payment of compensation to its citizens ordered by international tribunals. On the contrary, the use of different legal bases would reduce the economic and legal risk of the actions taken. Direct confiscation of the CBR's assets is the simplest method and could be carried out for part of the assets using the concept of remedies. However, it is advisable to carry out any expropriation gradually, and therefore in parts, rather than in one go. This is of particular relevance especially until the war in Ukraine is over, because then it can be seen as a means of enforcing a certain behaviour. As long as Russia does not cease hostilities, states could suspend respect for its immunity and successively and regularly transfer amounts from CBR funds to Ukraine commensurate with the expenditure it has to incur on armaments. This would mean that the sooner Russia ends its aggression, the fewer funds belonging to it will be transferred and, from its perspective, irretrievably lost—there would be a clear, direct relationship between these two variables, which would justify the impossibility of a later return. An alternative, albeit less optimal, solution could be to carry out confiscation using the concept of collective defence. Ukraine's allies would thus declare to the UN Security Council that they would expropriate with the intention of supporting Ukraine, whose independence and territorial integrity remain threatened by Russian aggression.

Another basis for expropriation could be the seizure of part of the CBR's funds to pay compensation awarded by international courts. This would have the advantage of being able to rely on the judgment of a recognised international tribunal as a basis for enforcement taken from Russia's assets and bypass its immunity. However, this would require the individual bodies examining the cases to issue appropriate rulings (which would take some time) and may only cover some tribunals, mainly the ICJ and the ECHR. Other options include handing over the CBR's assets to a specially-created international commission, which would verify the compensation claims of individuals and other entities related to the war in Ukraine, determine the extent of the damage caused and order compensation from such assets. The most legitimate avenue for such action would be to bring about an appropriate resolution of the UN General Assembly acting in extraordinary session in accordance with the procedure set out in the United for Peace resolution.

Solutions advocating the use of frozen Russian state assets as collateral in kind, which would be used to raise funds for military support or reconstruction of Ukraine, on the other hand, seem hardly practical. In view of the problems posed by the feasibility of using such collateral, they would not necessarily enable the granting of clearly favourable interest-bearing loans or the issuing of bonds at clearly below-market interest rates. Also, treating frozen Russian state assets as collateral for compensation payments under a future peace agreement does not appear to be an optimal solution. Although it eliminates legal risks and does not create risks from the economic side, its biggest drawback is that it basically just means a continuation of the status quo, i.e. an extension of the CBR asset freeze.

The issue of frozen Russian state assets appears to highlight the tension between the order based on international law and the moral and political need to achieve justice. However, a closer look at the available institutions and legal solutions suggests that there is not necessarily a conflict between this order and the need for justice, as it is already possible to take legal steps towards achieving a fair outcome. Moreover, possible actions could clarify the future course of action

in similar cases, leading to the development of international law. This could result in a change in the content of customary state immunity itself, towards an unambiguous deprivation of protection for the property of an entity that contributes in an extreme and flagrant manner to the disruption of international peace and security. This could increase the effectiveness of enforcing compliance with the most fundamental norms of this law, which is in the interest of the entire international community. The problem under consideration is therefore primarily a political challenge with an important economic dimension. Its solution depends on finding the political will among state leaders, especially those of the G7, to punish Russia decisively for its aggression and to provide significant support to its victims.



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