



All-Party
Parliamentary Group
on Magnitsky Sanctions

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UK MAGNITSKY SANCTIONS: STUCK IN FIRST GEAR?

Presented by the APPG on Magnitsky Sanctions

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EXECUTIVE SUMMARY

The UK's Magnitsky sanctions regime has provided the UK Government with an important tool for tackling the most egregious cases of human rights violations and corruption committed around the world.

Magnitsky sanctions must be used **ambitiously, consistently and appropriately** if they are to be effective in upholding human rights, tackling illicit finance and preventing the UK from being a haven for war criminals and kleptocrats.

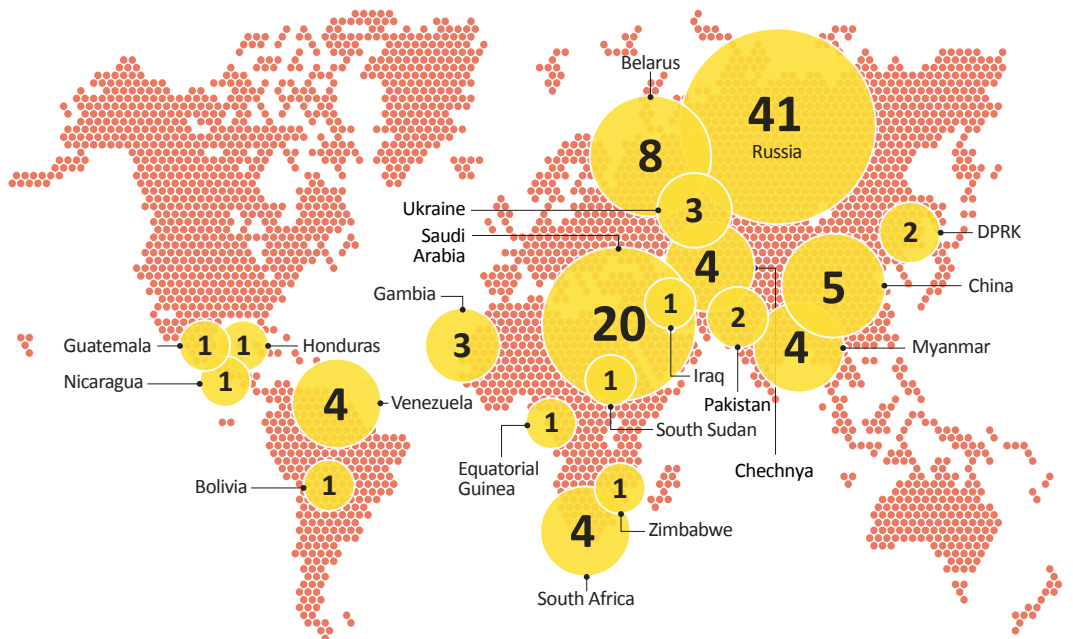
Recommendations

The UK Government must:

1. **Increase the number of Magnitsky sanctions imposed.** In the first year of the regime, the UK sanctioned 102 perpetrators for human rights and corruption: this fell to 6 perpetrators in the second year.
2. **Coordinate with its allies.** The UK has sanctioned only 20% of the perpetrators sanctioned by the US under its Magnitsky sanctions regimes.
3. **Increase the resourcing of the FCDO and Treasury sanctions teams.** This is essential to increase capacity for sanctions designations and support more effective enforcement.
4. **Act as a global leader.** The UK should encourage other countries to implement their own Magnitsky regimes.
5. **Increase Parliamentary oversight.** The Government should report annually to Parliament on its use of Magnitsky sanctions.
6. **Enable the confiscation of frozen assets where appropriate.** This would facilitate the payment of reparations to victims, such as those of the Russian invasion of Ukraine.

MAGNITSKY SANCTIONS IN REVIEW

Number of designations by country



Case study: Teodoro Obiang Mangué, Equatorial Guinea

On 22 July 2021, the UK sanctioned Teodoro “Teodorin” Obiang Mangué, Vice President of Equatorial Guinea, and son of the President, for corruption. He was sanctioned for “his involvement in the misappropriation of state funds into his own personal bank accounts, corrupt contracting arrangements and soliciting bribes, to fund a lavish lifestyle inconsistent with his official salary as a government minister. This included the purchase of a \$100m mansion in Paris and a \$38 million private jet.”¹

The UK sanctions on Teodorin formed part of broader international efforts, including the seizure of 25 luxury cars by Swiss criminal authorities, €150m by French criminal authorities and \$70m by the US Department of Justice.²

While a lack of coordination with the EU and US (who have not yet sanctioned Teodorin) has reduced the UK sanctions’ impact, and Teodorin is not known to have assets in the UK, the sanctions on him have still created a “trickle down fear” amongst those around him, particular those with links to the UK.³ The UK sanctions have also energised local civil society and acted as a catalyst for further change.

This case clearly demonstrates the potential impact of UK Magnitsky sanctions. Unfortunately, the overall success of the regime is being undermined by a number of limitations, as explored below.

¹ FCDO Press Release, New UK sanctions against individuals involved in corruption around the world, 22 July 2021. Available at: <https://www.gov.uk/government/news/new-uk-sanctions-against-individuals-involved-in-corruption-around-the-world>

² Human Rights Watch, France: Equatorial Guinea Vice President’s Conviction Upheld, 28 July 2021. Available at: <https://www.hrw.org/news/2021/07/28/france-equatorial-guinea-vice-presidents-conviction-upheld>

³ This is based on discussions between REDRESS and civil society actors working on corruption in Equatorial Guinea.

Slowdown in use

There has been a significant slow-down in the use of Magnitsky sanctions by the UK over recent months. In the first year of the regime, the UK sanctioned 102 perpetrators for human rights and corruption: this fell to six perpetrators in the second year.

Coinciding with International Human Rights Day and Anti-Corruption Day in December 2021, the U.S. announced sanctions on 108 individuals and entities for human rights violations and corruption across 16 countries including China, Myanmar, Bangladesh, the DRC, South Sudan, Liberia, Iran, Syria and Ukraine.

In the same week, the UK government announced just one human rights designation under its Magnitsky regime and four designations under the Myanmar country regime. No sanctions were issued for corruption.

Lack of coordination

The UK is currently failing to keep pace on sanctions designations with its allies, particularly the US. Lord Ahmad, Minister of State for South Asia, the United Nations and the Commonwealth, has stressed that coordination is at the heart of the UK's sanctions regime, noting that *"sanctions work best when multiple countries act together to constrain or coerce a target's ability to carry out unacceptable behaviour, or to send a political signal that such behaviour is intolerable"*.⁴

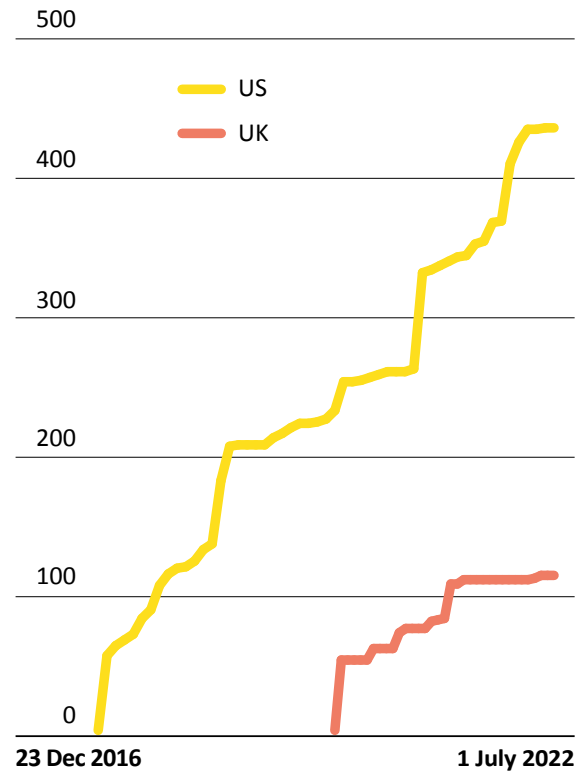
Coordination on sanctions: US and UK



Actors sanctioned by the US

Actors also sanctioned by the UK

Number of Magnitsky sanctions



In spite of this, the UK has sanctioned only 20% of the perpetrators sanctioned by the US under its Magnitsky sanctions regimes. This lack of coordination undermines the effectiveness of sanctions by allowing corrupt officials, kleptocrats and human rights perpetrators, sanctioned by the US and other jurisdictions, to use the UK as a haven to enjoy their ill-gotten gains. Similarly, the failure of the US and EU to sanction in cases where the UK has taken action has reduced the impact of the UK's actions.

⁴ FCDO, *Sanctions Regulations, Report on Annual Reviews 2021*, January 2022. Available at: <https://www.gov.uk/government/publications/sanctions-regulations-report-on-annual-reviews-2021>

Failures in implementation and enforcement

The effectiveness of sanctions is often undermined by a lack of implementation in the freezing of assets and enforcement. This undermines the credibility of the sanctions regimes and weakens their potential deterrent effect.

After its establishment in 2016 and some initial success, the Treasury's Office for Financial Sanctions Implementation's (OFSI) yearly performance record has stagnated and, in some areas, worsened. Prior to the Ukraine crisis, the total value of frozen assets in the UK had not changed significantly since the OFSI's first full year of operations, starting at £12.7 billion in 2017/18 and dropping slightly to £12.2 billion in 2020/21. At the same time, the number of people subject to an asset freeze in the UK has fallen by 25%, from 2,183 in 2018/19 to 1,638 in

2020/21. There have also been reports of the UK failing to take action in relation to relevant assets: for example, it was reported that a private jet targeted by sanctions for being linked to Russian businessman and supporter of President Lukashenko, Mikhail Gutseriev was allowed to land at Luton Airport twice in January 2022.⁵

OFSI also has a very low enforcement rate for breaches of sanctions, and where fines are imposed, they are generally low. The total value of sanctions breaches amounted to £928,000,000 in the year to March 2020.⁶ However, between 2018/19 to April 2022, the OFSI has only issued **7 monetary penalties with a total value of £20,681,000 on 6 entities.**

Sanctions and asset recovery: connecting the dots

The Russian invasion of Ukraine and the related sanctions have added weight to long-standing calls for the UK Government and its enforcement agencies to consider the confiscation and repurposing of frozen assets.⁷

On 28 June 2022, Foreign Secretary Liz Truss told the Foreign Affairs Committee that she was supportive of the concept of confiscating frozen Russian assets to support victims of the war, and that the FCDO is working on the issue with the Home Office and the Treasury. Justice Secretary and Deputy Prime Minister, Dominic Raab,⁸ and the former Secretary of State for Levelling Up, Housing and Communities, Michael Gove, have also made similar statements.⁹

Canada has amended its laws to enable confiscation and repurposing of frozen assets, and in the US, several bills have been introduced into Congress.

Current UK law is not equipped to confiscate Russian assets frozen under sanctions. To realise the potential of sanctioned assets to compensate Ukraine and provide reparations for victims, the UK government must join its allies in proactively exploring legal routes. In doing so, the Government should increase transparency, ensure compliance with rule of law and human rights principles, and collaborate with civil society and victims groups.

⁵ iNews, Sanctions: UK faces questions over enforcement after private jet linked to Belarus spends week in Britain, 15 February 2022. Accessible at: <https://inews.co.uk/news/sanctions-uk-faces-questions-over-enforcement-after-private-jet-linked-to-belarus-spends-week-in-britain-1460476>

⁶ HMT OFSI, Annual Review, April 2019 to March 2020. Accessible at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925548/OFSI_Annual_Review_2019_to_2020.pdf

⁷ Hogan Lovells, Global Survivors Fund, REDRESS and Goldsmith Chambers discussion paper, *Finance for Restorative Justice, Volume II*, 19 June 2021, pp. 26 – 35. Available at: https://www.hoganlovells.com/-/media/hogan-lovells/pdf/2021-pdfs/2021_06_25_finance_for_restorative_justice_-_volume_ii_stage_5.pdf.

⁸ The Guardian, *Property of Russian elites could be handed to Ukrainian refugees, says Raab*, 4 March 2022. Available at: <https://www.theguardian.com/world/2022/mar/04/property-of-russian-elites-could-be-handed-to-ukrainian-refugees-says-raab>

⁹ The Times, *Michael Gove explores options for seizing oligarchs' property*, 3 March 2022. Available at: <https://www.thetimes.co.uk/article/michael-gove-explores-options-for-seizing-oligarchs-property-wct37tm2t>.

HOW TO IMPROVE THE USE OF SANCTIONS

A strategic approach to sanctions

When making sanctions decisions, the Government has often failed to take a sufficiently broad or strategic approach. This has led to significant gaps in accountability and deterrence. When making sanctions decisions, the Government has often failed to sanction key perpetrators. For example, when sanctioning Chinese officials in Xinjiang for their involvement in the Uyghur genocide, the Government did not sanction the high-ranking official who is often referred to as the “architect” of the genocide, Chen Quanguo.

The UK’s Magnitsky sanctions regime allows for sanctions to be imposed on state and non-state actors involved in human rights violations and corruption in numerous ways, i.e. not only those who are directly responsible for that conduct, but also those who facilitate, incite, promote, support, profit or otherwise benefit from it; who conceal evidence of it; or who fail to investigate and/or prosecute when they have a duty to do so. It also permits the UK to impose derivative sanctions on individuals and entities owned or controlled, directly or indirectly, by an involved person; acting

on behalf of or at their direction; and those who are associated with them.

The Government should consistently use the full breadth of the regime to take action against the diverse range of actors involved in abuses: that includes those at the centre of violations and corruption, and their enablers. The UK must also consider designating close business associates and family members, as well as the full corporate network of a designated individual or entity where appropriate, to avoid sanctions evasion through the transfer of assets. Recent designations under the separate Russia sanctions regime that cover family members of the main sanctioned individual (such as the Shuvalov and Rotenberg families) show the FCDO is open to this approach.

With regards to the Russian invasion of Ukraine, none of the actors sanctioned have been sanctioned under the Magnitsky sanctions regime. If the Government took a more strategic approach by cross-sanctioning, it would ensure that those involved in serious human rights abuses or corruption would remain on the sanctions list regardless of the outcome of the invasion.

Case study: Rapid Action Battalion, Bangladesh

On 10 December 2021, the United States sanctioned Bangladesh’s Rapid Action Battalion (RAB) and a number of high-ranking officials in the security force, responsible for thousands of extra-judicial killings and enforced disappearances. Following these sanctions, extra-judicial killings dropped dramatically and no enforced disappearances were reported for three months.¹⁰

The sanctions made deployment to the RAB less appealing and created a space for civil society and the media to talk about security force abuses in unprecedented ways. As a result of the

sanctions, the Bangladesh government has indicated that it is open to constructive engagement on security force abuses, inviting multiple UN Special Rapporteurs into the country and engaging with the UN Working Group on Enforced and Involuntary Disappearances.

The RAB example demonstrates the impact that Magnitsky sanctions can have. The effect of these US sanctions could be strengthened further if the UK joined its ally. A coordinated approach would reinforce accountability and help to deter some of the ongoing reprisals against human rights defenders.

¹⁰ The Economist, *How sanctions really can improve respect for human rights*, 29 January 2022, [How sanctions really can improve respect for human rights](#)

Global leadership

The Government has repeatedly stated that it will use its sanctions regime to “take on a distinctive leadership role as a credible, effective and collaborative sanctions partner”.¹¹ If the UK is to contribute to the fight against abuses, it must lead by example and ensure that it keeps pace with its allies in a co-ordinated manner to avoid the risk of asset flight.

The Government must also capitalise on the momentum which has built around targeted sanctions in the context of the Ukraine crisis and encourage other countries to develop their own laws and help to implement them robustly. This means working bilaterally with allies and using the fora of multilateral diplomacy, including the newly established G7 Sanctions Working Group.

Enhanced parliamentary scrutiny and oversight

Effective oversight of the Government’s use of the Magnitsky sanctions regime is essential. In 2018, the Government itself recognised the importance of parliamentary scrutiny of its sanctioning powers.¹²

However, recent amendments to the Sanctions and Anti-Money Laundering Act 2018 (introduced through the Economic Crime Act 2022) have removed a number of obligations on the Government to review and report on its sanctions regulations and individual designations. In particular, the Government is no longer obliged to review all designations every three years; to respond to any recommendations made by a Parliamentary committee; or to publish a report on offences created for breaches of sanctions with new regulations.¹³ Importantly, the Government is no longer obliged to

conduct and publish an annual review of its various sanctions regulations and their use. This amendment is a big step backwards and puts the UK out of alignment with the US, where the Secretary of State (in consultation with the Secretary of the Treasury) is obliged to submit an annual report to Congress on implementation of its sanctions regime.

The UK Government should re-commit to reporting to Parliament annually on its use of sanctions. This is vital for ensuring that sanctions regimes are used not only effectively, but appropriately, with sufficient regard to due process concerns.

Parliament should similarly take a more active role in scrutinising the Government’s use of sanctions. UK Parliamentarians and civil society have made a number of recommendations over recent years. In 2018, the Government agreed with the conclusion of the Foreign Affairs Committee (“**FAC**”) that it would be the most appropriate committee to exercise scrutiny. Civil society has also long advocated for an Independent Expert Panel to be established, as recommended by the High-Level Panel of Legal Experts on Media Freedom’s report on the use of sanctions.¹⁴

It is essential that there is a mechanism by which designations, decisions as to variations and de-listings, the resources allocated to the Sanctions Unit and OFSI, and the impact and effectiveness of the UK’s sanctions activities can be examined, and by which recommendations can be made.

Increased resources

Insufficient resourcing is a serious problem and has led to a lack of effective implementation by the FCDO’s Sanctions Unit and failures in enforcement by OFSI. There is also a particular concern, which the

¹¹ FCDO, *Sanctions Regulations, Report on Annual Reviews 2021*, January 2022. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052217/The_Sanctions_Regulations_Report_on_Annual_Reviews.pdf

¹² House of Commons, Foreign Affairs Committee, *Moscow’s Gold: Russian Corruption in the UK: Government response to the Committee’s Eighth Report*, 5 September 2018. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmfa/1488/1488.pdf>

¹³ Sections 62 and 63 of the Economic Crime Act

¹⁴ International Bar Association, *Report on the Use of Targeted Sanctions to Protect Journalists*, 13 February 2020. Available at: <https://www.ibanet.org/Media-Freedom-Sanctions-report-launch-2020>

Government has recognised,¹⁵ about the resourcing of enforcement of sanctions in the British Overseas Territories, where many corrupt actors hide their wealth.¹⁶

There is little transparency in the budget for the UK's sanctions work. The only publicly available information is that following the Ukraine crisis, the FCDO sanctions team tripled to 150 members of staff, and in the financial year 2020/21 the Sanctions Unit spent £49,000 on non-pay costs. As of March 2021, OFSI had 37.8 staff, in comparison to an estimated 259 FTE staff members at the US Office of Foreign Assets Control.

In the US, for 2022, Congress has supported funding levels of \$5.5 million for the Treasury, State and Justice Departments to implement the Global Magnitsky sanctions program and other related sanctions programs addressing human rights violations and corruption.

Increased transparency

If the sanctions regimes are to have a real impact on war criminals and kleptocrats, they should extract a financial cost as well as a reputational one. Sanctions will therefore be most effective as a deterrent if they target those most likely to use the UK financial system or those of its Overseas Territories and Crown Dependencies. However, the information needed to assess this is not currently available to the public.

The following information should be made publicly accessible:

- the number and value of assets frozen under the Magnitsky sanctions regime;
- details of any enforcement actions taken, including any exclusion from public procurement;

- the number of requests for variation and/or de-listing; number of such requests approved; and the number of judicial challenges; and
- resourcing made available for the Magnitsky sanctions regime, namely: OFSI and the FCDO's respective annual budgets for staff and other costs associated with designations and enforcement, including how many full-time/part-time staff work on these regimes as their primary responsibility, their level of seniority, and how long they have been in that position for.

¹⁵ As per Michael Ellis MP, Hansard, Sanctions; Volume 709, 1 March 2022, column 991. Available at: <https://hansard.parliament.uk/commons/2022-03-01/debates/6EF274E3-57A6-46ED-BFE2-348AEB926501/Sanctions>

¹⁶ In February 2022, Transparency International linked £830 million worth of property in the UK's OTs and Crown Dependencies to individuals close to Russian President Vladimir Putin or Russians accused of corruption. See: <https://www.transparency.org.uk/uk-money-laundering-stats-russia-suspicious-wealth>



All-Party Parliamentary Group on Magnitsky Sanctions

The All-Party Parliamentary Group (APPG) on Magnitsky Sanctions is a cross-party group of MPs and peers who seek to raise the profile of Magnitsky sanctions in Parliament, examine situations where they may be appropriate, and ensure that they are used effectively.

REDRESS

Ending torture, seeking justice for survivors

REDRESS is an international human rights organisation that delivers justice and reparation for survivors of torture, challenges impunity for perpetrators, and advocates for legal and policy reforms to combat torture. As part of this work, REDRESS uses sanctions to prevent human rights abuses and corruption, through imposing a financial cost on the perpetrators.



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