

Written evidence submitted by REDRESS to the Treasury Committee inquiry into the UK's financial sanctions on Russia

26 March 2024

SUMMARY

Topic 1: The Effectiveness UK Russia-related Financial Sanctions

1. One of the UK's primary responses to Russia's invasion of Ukraine has been the use of targeted sanctions. To date, the UK, together with allied States, has designated close to 2,000 Russian individuals and entities for their involvement in the conflict.
2. Despite the uplift in sanctions and efforts towards coordination, differences in sanction regimes across sanctioning States lead to divergences in their respective sanction lists. Such divergences risk creating loopholes that can be exploited. It also causes difficulties for those seeking to challenge their designations – an issue that is compounded by the lack of Parliamentary oversight of the UK's sanctions regime.

Topic 2: The Confiscation of Russian Frozen Assets

3. The UK alone has frozen over £22.7 billion in Russian assets. Current English law does not provide the tools needed to confiscate and repurpose most of the Russian assets frozen under sanctions. Other countries, such as the US and Canada, are developing laws and policies to make the confiscation and repurposing of assets frozen under sanctions possible. The UK Government has not yet put forward any such proposals.
4. The sale of Chelsea Football Club provides a unique opportunity for the UK Government to repurpose frozen funds for the benefit of survivors of international human rights and humanitarian law violations committed by Russia. However, the UK Government has failed to resolve the prevailing impasse over the release of its proceeds worth £2.5 billion.
5. The UK and its allies have made significant commitments to assist in the reconstruction and recovery of Ukraine. Yet, support for the reconstruction of Ukraine must not overshadow reparations for survivors. Adopting an inclusive, survivor-centred approach that includes survivors in the design and operation of reparation mechanisms is essential to meet their immediate and long-term needs.

Topic 4(d): The Effectiveness of OFSI's Sanctions Enforcement Work

6. The UK's response towards enforcing its Russia-related sanctions has been weak. Effective enforcement is crucial to protect the integrity of the UK's sanctions regime. It could also provide a source of funding to ensure reparations to survivors, if mechanisms are put in place to channel penalties for sanction violations to such purpose.

QUESTIONS FOR THE UK GOVERNMENT

7. Based on the evidence set out in the submission we propose that the Committee ask the UK Government the following questions during its oral evidence hearing:
 - a) Whether it has made an assessment of the potential merits of (a) enabling Parliament to exercise oversight of sanctions policy; and (b) imposing a duty on His

Majesty's Government to lay an annual report before Parliament on sanctions and related measures adopted on the basis of a relevant human rights purpose.¹

- b) What assessment it has made of the potential merits of repurposing frozen Russian private or State assets to provide reparations to survivors of Russia's violations of international human rights and humanitarian law (including through confiscating assets, repurposing profits generated by frozen assets or penalties imposed on sanctions violations).
- c) Whether it intends to put forward any plans for enhancing transparency around the ownership of Russian frozen assets in the UK.
- d) What progress, in partnership with other mechanisms working on delivering funds to survivors, it has made on managing and distributing monies from the proceeds of the sale of Chelsea Football Club.
- e) Provide clarification as to: (i) who has current ownership of the Chelsea funds; (ii) who needs to apply for a license to OFSI to secure their release; (iii) what is the timeline for their distribution; and (iv) whether the UK Government will have any oversight over how the funds will be spent.
- f) What measures it intends to take to prevent the circumvention of sanctions against Russia and what progress it has made on investigations and prosecutions for non-compliance with UK Russia sanctions.
- g) Whether it intends to follow the US example and consider repurposing penalties imposed for sanctions violations for the benefit of survivors of Russia's violations of international human rights and humanitarian law.
- h) What measures it intends to take to support the delivery of reparations to survivors of violations of international human rights and humanitarian law committed by Russia.

INTRODUCTION

- 8. This submission is made in response to the call for evidence of the Treasury Committee into: *"Are the UK's Russian financial sanctions working?"*.
- 9. REDRESS is an NGO that pursues legal claims on behalf of survivors of torture and human rights violations in the UK and around the world to obtain justice and reparations. As part of our work, we use targeted financial sanctions to prevent human rights abuses and corruption and seek to have the illicit financial proceeds of human rights abuses repurposed as reparations for survivors. We do this by investigating abuses and submitting evidence to sanctions authorities and criminal prosecutors, by using data-driven analysis to shape public policy, and by supporting NGOs across the world on asset recovery and sanctions. To date we have:
 - a) Helped the UK Government sanction individuals and entities responsible for serious human rights violations or corruption in Xinjiang, Sudan, Russia, Iran, Myanmar, Lebanon and Nicaragua, among others.
 - b) Issued a ground-breaking [guide to financial accountability](#) for human rights abuses and corruption and published [innovative reform proposals](#) to finance reparations.

¹ As defined by the Sanctions and Money Laundering Act 2018 Section 1(f).

- c) Released a first-of-its-kind [framework](#) for assessing the impact of targeted human rights and anti-corruption sanctions, as well as the first-ever [multilateral report](#) calling for the more effective international coordination of targeted sanctions.
 - d) Trained over 300 NGOs on using the UK's global human rights and anti-corruption sanctions regimes and supported NGOs in submitting over 30 detailed evidence packages to the UK Government.
 - e) Submitted evidence on the effectiveness of the UK's targeted sanctions regimes to inquiries by the [Foreign Affairs Committee](#) and the [House of Lords European Affairs Committee](#).
 - f) Led a coalition of over 60 Ukrainian NGOs in [calling](#) for the release of the proceeds of the sale of Chelsea Football Club as reparations for survivors of Russia's violations of international human rights and humanitarian law.
10. This submission responds to Questions 1, 2 and 4(d) of the Committee's call for evidence.

TOPIC 1: WHETHER FINANCIAL SANCTIONS INSTITUTED BY THE UK ON RUSSIA, ARE COMPLETE AND EFFECTIVE IN TERMS OF THE ENTITIES THAT HAVE BEEN DESIGNATED, AND THE ENTITIES WHICH HAVE TO COMPLY WITH THE RULES?

Inconsistency in designations of Russian targets across jurisdictions hinders the full realisation of the potential impact sanctions can have

- 11. One of the UK's primary responses to the full-scale Russian invasion of Ukraine has been the use of targeted sanctions. Approximately 1,702 individuals and 298 entities have been subject to UK sanctions under its [Russia \(Sanctions\) \(EU Exit\) Regulations 2019 \(as amended\)](#). Many of these designations have been coordinated between the UK, the EU, and other allies, to ensure maximum effect.
- 12. For example, over 400 designations made by the UK since March 2022 were made under an 'urgent procedure', pursuant to which the UK Government can designate Russian individuals and entities provided this is in the public interest and they have already been sanctioned by other allied States. This procedure has significantly enhanced the UK's coordination of sanctions against Russian targets with its allies.
- 13. Nevertheless, differences in sanctions regimes operating across relevant sanctioning jurisdictions following the Russian invasion of Ukraine have led to inevitable divergences in their respective sanctions lists. For example, both the UK's and EU's Russia specific sanctions regulations target conduct that undermines or threatens the territorial integrity, sovereignty, or independence of Ukraine. However, the [UK's regime](#) is wider in scope in that a person may also be designated if they have obtained a benefit from, or support, the Government of Russia.
- 14. In further deviation from the EU's position, in June 2023, the UK [amended](#) its Russia sanctions regime to allow sanctions to be imposed for the purpose of 'promoting the payment of compensation by Russia'. This means that, in lieu of compensatory payments from Russia to Ukraine, UK sanctions can remain in place even if the conflict were to end. On the one hand, the different scopes of the regimes risk creating loopholes that can be exploited by sanctioned targets and pose challenges for third

parties that must comply with sanctions across multiple jurisdictions.² On the other hand, for sanctioned individuals, the UK's broad designation criteria, impedes their ability to effectively challenge the measures, introducing due process concerns. This also impacts sanctions' role as a tool for individual accountability as the designation is no longer tied to an individual's own wrongdoing, but instead, to the regime's broader policy.

15. Open and active consultation with survivor communities, civil society organisations and activists who have knowledge of the context, network and asset footprint of Russian oligarchs and those supporting Russia's regime can assist UK decision-makers in selecting appropriate targets and ensure designations are responsive to the needs of the survivors of the proscribed conduct.

Recommendation

16. Despite the uplift in sanctions and efforts towards coordination, the UK Government should enhance efforts to narrow and align their designations as much as possible with its allies, ensuring designations are accompanied with detailed and consistent statements of reasons, clearly and thoroughly setting out the designated persons' involvement in the sanctionable activities. In identifying targets, the UK Government should consult with civil society organisations and survivor groups to ensure designations remain impactful and legitimate in the eyes of those affected.

The absence of transparency and consistency in sanctions designations risks undermining their fairness and effectiveness

17. It remains unclear on what basis the UK Government would delist an individual or entity. This not only raises due process concerns given the length of time a designated person may stay listed without automatic review but also undermines sanctions' role as a coercive measure to affect behavior change.
18. This issue has been compounded by the lack of parliamentary oversight of the UK's sanctions regime. The limited oversight protections available under the [Sanctions and Anti-Money Laundering Act 2018 \(SAML A\)](#) sections 24, 30 and 32 were removed via the [Economic Crime \(Transparency Enforcement\) Act 2022](#). The previous oversight mechanisms required the appropriate Minister to:
 - i) review designations every three years (previously SAML A s.24);
 - ii) annually review whether sanctions regulations were still appropriate under the Act, and lay before Parliament a report containing the conclusions of the review, the reasoning, and any planned action (previously SAML A s.30); and
 - iii) report to Parliament every year on whether they made any regulations under s.1 SAML A, including in respect to human rights purposes and set out in this report whether any Parliamentary Committee had made recommendations that the power under s.1 be exercised for human rights purposes, and what the Government response to such a recommendation had been (previously SAML A s.32).
19. While these mechanisms provided critical due process protections for sanctioned persons and an opportunity to scrutinise the Government's use of sanctions, they did

² For example, while the US follows the 50% rule when assessing which entities are caught by asset-freeze/financial sanctions, both the UK and EU apply variations on an ownership or control test. See Regulation 7 of the [Russia \(Sanctions\)\(EU Exit\) Regulations 2019](#).

not go far enough. For example, the [Joint Select Committee on Human Rights](#) noted that review of designations every three years was insufficient to protect due process rights of designated persons and instead recommended an annual review.

Recommendation

20. To ensure proper scrutiny and Parliamentary oversight over its targeted sanctions regime, the UK Government should re-instate sections 24, 30 and 32 of SAMLA and implement the recommendations by the Joint Select Committee on Human Rights.

TOPIC 2: WHETHER ASSETS FROZEN AS PART OF THE UK'S FINANCIAL SANCTIONS ON RUSSIA SHOULD BE CONFISCATED, AND WHETHER THERE ARE LEGAL PRECEDENTS FOR SUCH A MOVE?

Current UK Law is not equipped to confiscate frozen Russian assets

21. The UK has frozen billions of pounds in Russian assets under sanctions following Russia's full-scale invasion of Ukraine. The UK Government has an opportunity to repurpose this wealth to provide reparations for damage caused to survivors of Russia's violations of international human rights and humanitarian law. However, current English law does not provide the tools needed to confiscate and repurpose most of the Russian assets frozen under sanctions.
22. Under the [Proceeds of Crime Act 2002](#) (POCA), individuals' assets can be confiscated in two circumstances. First, the assets of an offender convicted of a criminal offense can be confiscated where the offender has benefited from their criminal conduct. Prosecutions are difficult and costly and are unlikely to be successful against Russian individuals who are not in the UK or for whom it is difficult to establish beyond a reasonable doubt that they committed a crime.
23. Second, property obtained through unlawful conduct can be subject to civil confiscation. However, demonstrating a link between the assets and unlawful conduct can be challenging, or even impossible, in the context of international human rights or humanitarian law violations or serious corruption. Often, the unlawfulness at the root of the individual's wealth is historical, having been amassed over decades and laundered into apparently legitimate businesses using complex structures in offshore tax havens.
24. The introduction of Unexplained Wealth Orders (UWO) was intended to alleviate these challenges, but in practice, they have been largely ineffective in tackling illicit wealth. UWOs allow for the confiscation of assets without proving criminality by putting the burden on the respondent to show that their assets were lawfully obtained. However, under the legislation, wealth is deemed lawfully obtained if it is generated legally under the laws of the country where the income arose. As such, an individual targeted could simply appeal to the authorities in their home State for the UWO to be dismissed. In addition, where a person has an ostensibly legitimate explanation, UK enforcement agencies must disprove the explanation to a civil standard to succeed in confiscation – re-introducing the evidentiary problems UWOs were meant to address.
25. The first step is for the UK Government to be transparent about frozen Russian assets within its jurisdiction. While [estimates](#) suggest that there are roughly £22.7 billion worth of assets in relation to Russia frozen in the UK, there is no public record of who these assets belong to and where they are located. Greater transparency about the ownership and control of assets subject to sanctions would enhance the work of the

UK's enforcement agencies and provide a basis for potential future civil or criminal investigations.

26. Further, while section 241 of POCA allows for the confiscation of assets derived from 'gross human rights violations' - regardless of whether the conduct was criminal in the country where it occurred - the definition of such violations is narrowly construed, limiting it to situations where: (i) an 'whistle-blower' or 'human rights defender'; (ii) has been subjected to torture or inhumane or degrading treatment; (iii) by, or on behalf of, a public official; (iv) for having sought to obtain, exercise, defend, or promote human rights or expose illegal activity by a public official.
27. This definition does not correspond to the meaning of 'gross human rights violations' under international law. Although not formally defined in international law, 'gross violations' typically denote types of violations that affect in qualitative and quantitative terms the most basic rights of human beings, including genocide, slavery, murder, enforced disappearances, torture or other cruel, inhuman or degrading treatment or punishment, prolonged arbitrary detention, deportation or forcible transfer of population, and systematic racial discrimination.³
28. Given this narrow scope, to date, most confiscation proceedings initiated against individuals connected to international human rights or humanitarian law violations have targeted assets derived from their involvement in 'economic crimes', such as sanctions violations, resulting in relatively modest sums.⁴

Recommendation:

29. The UK Government should publish data on Russian assets frozen within the UK's jurisdiction with a breakdown by asset class, including those owned by individual perpetrators, State-owned enterprises and State assets.
30. It should also expand the scope of 'unlawful conduct' for the purpose of civil confiscation proceedings to include all types of gross human rights and humanitarian law violations and remove the requirement for the survivors of that conduct to be a whistle-blower or human rights defender. Such amendments would bring existing POCA provisions in line with international law and make it easier for UK prosecuting authorities to confiscate illicit wealth derived from, or connected to, the most prevalent and serious human rights violations.

The UK is yet to replicate efforts by allies to confiscate Russian frozen assets

³ See for example, International Commission of Jurists, '[A Practitioners' Guide to the Right to a Remedy and Reparation for Gross Human Rights Violations](#)', October 2018. This Guide further notes that Deliberate and systematic deprivation of essential foodstuffs, essential primary health care or basic shelter and housing may also amount to gross violations of human rights. In international humanitarian law, 'serious violations' are to be distinguished from 'grave breaches'. The latter refers to atrocious violations that are defined in international humanitarian law but only relating to international armed conflicts. The term 'serious violations' is referred to but not defined in international humanitarian law. It denotes severe violations that constitute crimes under international law, whether committed in international or non-international armed conflict. The acts and elements of 'serious violations' (along with 'grave breaches') are reflected in article 8 of the Rome Statute of the International Criminal Court under 'war crimes'; See also, Redress, '[Implementing Victims' Rights: A Handbook on the Basic Principles and Guidelines on the Right to a Remedy and Reparation](#)', March 2006; and UN Office of the High Commissioner for Human Rights, '[Rule-of-Law Tools for Post-Conflict States. Reparations Programmes](#)', 2008, HR/PUB/08/1.

⁴ For example, in 2019, the UK National Crime Agency (NCA) seized £24,668 from a Barclays bank account belonging to [Aniseh Chawkat](#) - Bashar al-Assad's niece. The NCA found that 56 cash deposits were paid into Chawkat's account at branches of Barclay's bank by members of the Assad family in breach of UK sanctions, using money laundering networks in the UK and the Middle East.

31. Other countries, such as the US and Canada, are developing laws and policies to make the confiscation and repurposing of assets frozen under sanctions possible. The UK Government has not yet put forward any such proposals.
32. In June 2022, Canada became the first, and only G7 country to introduce new laws enabling the confiscation and repurposing of frozen assets. The [C-19 Budget Implementation Act](#) received royal assent on 23 June 2022, modifying the country's 1992 Special Economic Measures Act and the 2017 Justice for Victims of Corrupt Foreign Officials Act (Magnitsky Act). The amendments allow the Minister of Foreign Affairs to apply for a court order for assets frozen under sanctions to be forfeited where there have been grave breaches of international security, gross and systematic human rights violations, or significant corruption overseas, or a UN request for sanctions. A judge may make an order for assets which are owned, held or controlled by a foreign State, a person in that foreign State, or a national of the foreign State, to be forfeited. The net proceeds can be used for reconstructing a foreign State, restoring international peace and security and compensating survivors.
33. It is unclear whether the Canadian law would meet the due process and right to property protections required in some jurisdictions. Although the law includes some protections for the sanctions target, including access to a petition for delisting and judicial review, the threshold for asset confiscation is low, raising due process concerns. The ability of Canada's law to withstand fundamental rights challenges will likely soon be tested. In [December 2022](#), the Canadian Government announced that it will seize and pursue forfeiture of US\$26 million from a company owned by sanctioned Russian oligarch Roman Abramovich. In [June 2023](#), it further announced that it had seized and was pursuing the forfeiture of a Russian-owned Antonovo AN-124 cargo airplane stranded at Toronto's Pearson International Airport since the invasion. This is the first time that Canada will use the legislation to pursue confiscation, and if successful, the proceeds will be provided for the reconstruction of Ukraine and compensation to survivors of Russia's violations of international human rights and humanitarian law.
34. Further, the US House of Representatives included a bill in its [2023 Consolidated Appropriations Act](#), allowing the Attorney General to transfer to the Secretary of State the proceeds of any assets seized from sanctioned Russian oligarchs, or assets used in a sanction violation, to fund the rebuilding of Ukraine. The bill was first put into practice in May 2023, when US Attorney General Merrick Garland [authorised](#) the transfer of US\$5.4 million taken from a bank account of sanctioned Russian oligarch Konstantin Malofeyev. Malofeyev was [charged](#) by the Justice Department with violating US sanctions imposed on him following Russia's 2014 invasion of Crimea. The funds confiscated [constituted](#) proceeds traceable to Malofeyev's sanctions violations and were therefore confiscated following his indictment as 'proceeds of crime'.
35. Finally, in a first attempt by a EU country to craft a legal way for asset confiscation, the Estonian parliament passed a [draft law](#) in the first reading that would allow the Estonian Government to confiscate Russian frozen assets and use the revenue as "*prepayment of the compensation for the damage caused to a foreign state by a violation of the prohibition of the use of force under Article 2(4) UN Charter or of the rules of warfare during the unlawful use of armed forces*". If passed into law, these measures would target those with a connection to the policymaking of the State that has committed or assisted in the relevant violations. The second hearing is due in March or April, with the law potentially being adopted in the second half of 2024.

While the law includes several legal safeguards, including that the Estonian Government would first need to apply for permission from the Administrative Court before seizing the assets in question and the asset owner would be given an opportunity for judicial review, concerns persist around the legality of confiscating individual assets for international law violations committed by a State.

Recommendation:

36. The UK Government should consult with civil society and experts on the development and implementation of new legislation to enable the confiscation and repurposing of frozen assets as reparations for survivors of international human rights and humanitarian law violations. Robust laws are needed to effectively recoup the illicit wealth stored by Russian oligarchs in the UK for the benefit of survivors. This can be achieved through updating POCA or developing new standalone laws to support survivors' right to reparations under international law. Such laws should establish a clear legal basis for confiscating assets, for example, because their owner is complicit in, or has supported or benefited from serious human rights or humanitarian law violations, while ensuring proportionality and respect for property rights and due process.
37. There could also be a rebuttable presumption that property will be deemed 'illicit' or subject to confiscation in particular circumstances.⁵ Different categories of assets will require different approaches, and not all assets belonging to affiliates of the Russian regime will necessarily meet the criteria for confiscation. However, repurposing even a small portion of them could make a profound difference for survivors of international human rights and humanitarian law violations.

The UK Government must resolve the Impasse over the Sale of Chelsea Football Club

38. In the absence of new laws, the closest the UK Government has come to confiscating Russian frozen assets is the sale of Chelsea Football Club. In March 2022, Roman Abramovich [declared](#) his willingness to sell Chelsea Football Club and use the proceeds worth £2.5 billion "*for the benefit of all victims of the war in Ukraine*". Shortly after, Abramovich became subject to UK sanctions for his close connections with Putin's regime. With his funds frozen, the sale of the Chelsea Football Club was made possible by a licence granted by the Office of Financial Sanctions Implementation (OFSI) on 24 May 2022 to create a [foundation](#) with "*exclusively humanitarian purposes supporting all victims of the conflict in Ukraine, and its consequences*".
39. The Department for Culture, Media and Sport further stated, in a unilateral declaration authorising the sale on 30 May 2022, that the funds would be used for "*exclusively humanitarian purposes in Ukraine*". However, two years later, the process remains at a stalemate, with neither the Foreign, Commonwealth & Development Office (FCDO) nor those tasked with creating the foundation taking decisive action to progress the matter.

⁵ For example, under Switzerland's 2016 [Foreign Illicit Assets Act](#), there is a presumption that assets are of illicit origin where the following conditions are fulfilled: (1) the wealth of the individual who has the power of disposal over the assets increased inordinately, facilitated by the exercise of a public function by the PEP, and (2) the level of corruption in the country of origin or surrounding the PEP was notoriously high during their term in office.

40. REDRESS understands through correspondence with the Parliamentary Under Secretary of State at the FCDO, Leo Docherty MP, that an application to OFSI for a licence to move or use the funds is required, and that it will not be able to grant an application without assessing the parties involved in any transaction, the financial institutions used, and the payment route of the transactions, including account details.
41. REDRESS also understands that without adequate funds and resources, the charitable foundation cannot be established and therefore an application to OFSI for a license with the requested details cannot be made. It also has been reported that a dispute has emerged between the Government and the foundation over whether the funds are to be directed exclusively to Ukraine or Ukrainian survivors, or for broader purposes. This stands in stark contrast to the remarks made by the Foreign Secretary in January of this year in Davos on the confiscation of Russian assets, where he [stated](#) “[a]t the end of the day, Russia is going to have to pay reparations for its illegal invasion, so why not spend some of the money now, rather than wait till the war is over and have all the legal wrangling about reparations”. The impasse on Chelsea Football Club also undermines the possibility of [a voluntary donation mechanism](#), announced by the UK Government in the context of the [Ukraine Recovery Conference](#) last year to allow sanctioned Russian individuals to volunteer assets for Ukraine, working in practice.

Recommendation

42. The UK Government should act to release the sale proceeds of Chelsea Football Club to support survivors of Russia’s violations of international human rights and humanitarian law, including by repurposing some of these funds into existing reparations mechanisms (see below at paragraph 47).
43. The UK Government should clarify: (i) who has current ownership of the Chelsea funds; (ii) who needs to apply for a license to OFSI to secure their release; (iii) what is the timeline for their distribution; and (iv) whether the UK Government will have any oversight over how the funds will be spent.

The UK Government must ensure that support for Ukraine’s reconstruction does not overshadow reparations for survivors

44. A joint [assessment](#) by the World Bank, the Government of Ukraine, the European Commission and the United Nations published in March 2023 estimated the total cost of reconstruction and recovery at US\$411 billion, which includes damage to infrastructure and to the environment, as well as economic and social losses resulting from the conflict. The UK and international allies have all expressed their commitment to assist in the reconstruction and recovery efforts of Ukraine, as exemplified at the [Ukraine Recovery Conference](#) held in London in June 2023.
45. Yet, despite these commitments, there are two significant omissions in the narrative and debate in the UK on the reconstruction and recovery of Ukraine: (i) that efforts can be made while the conflict is ongoing (i.e., not only “post-war”) and; (ii) that efforts can be made in terms of the delivery of reparations to survivors of international human rights and humanitarian law violations. These omissions risk jeopardising a survivor-centred approach, prioritising the economic recovery of Ukraine and private investors over survivor reparations.

46. Survivors of the conflict since 2014 require reparations to address the harm caused, restore their dignity and rebuild their lives. Close to 10 million people [are estimated](#) to be internally displaced or refugees abroad. Widespread human rights violations and over 125,000 war crimes, including conflict-related sexual violence and torture, have been reported. In addition to the physical and material suffering caused, Viktor Liashko, Minister of Health of Ukraine, [estimated](#) at the end of 2023 that 14 million Ukrainians need psychological aid.
47. In line with the [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#) for survivors, Ukraine and third States, including the UK, can step in where Russia is unwilling or unable to meet its obligations to provide reparations. There are several existing or planned mechanisms both at international and national levels for delivering reparations to survivors of international human rights and humanitarian law violations, which the UK could support:
- a) The [Register of Damage for Ukraine](#), which was set up by an agreement between the Council of Europe, 43 states (including the UK), and the EU to serve as a record of evidence and claims for damage, loss or injury caused to all natural and legal persons concerned, as well as to the State of Ukraine, by Russia's internationally wrongful acts in or against Ukraine. It is envisaged as the first step towards an international fund and claims and compensation mechanisms.
 - b) The [Trust Fund for Victims at the International Criminal Court](#) (ICC), which can immediately provide reparative measures such as rehabilitation and support to victims of genocide, crimes against humanity and war crimes in Ukraine, and provide reparations ordered by the Court with respect to cases before the ICC, including for the war crimes of unlawful deportation and transfer of children from occupied areas of Ukraine to the Russian Federation which are being prosecuted in the context of the case of the [ICC Prosecutor v Vladimir Putin and ICC Prosecutor v. Maria Lvova-Belova](#).
 - c) The [Global Survivors Fund](#) is currently supporting Ukrainian authorities to provide a legal structure to deliver urgent interim reparations to ensure that the survivors of conflict-related sexual violence receive concrete and life-changing support.
 - d) A [new UK mechanism](#) for "victims of internationally wrongful conduct", which could pool funds and enable those who have suffered abuses abroad to access them as reparations, potentially as an expansion of existing domestic schemes such as the Criminal Injuries Compensation Scheme.
 - e) In Ukraine, there are also [national administrative mechanisms](#) to deliver reparations in place and in progress, including compensation for property damage, and for those who have suffered human rights violations in detention, and reparations for survivors of conflict-related sexual violence.

Recommendation

48. In future commitments to assist in the recovery of Ukraine, the UK should adopt a survivor-centred approach by including support for existing and new funds and mechanisms to deliver reparations to survivors of Russia's violations of international human rights and humanitarian law.

TOPIC 4: THE EFFECTIVENESS OF THE WORK OF OFSI

The UK's failure to effectively enforce sanctions undermines their deterrent potential

49. The UK's response towards enforcing its Russia-related sanctions has been weak, largely due to lack of political will and resources to relevant agencies.
50. Despite the [175% increase](#) in resourcing for OFSI's enforcement team in the financial year 2022-2023 and the Government having committed £50 million to tackle sanctions evasion through its [Economic Deterrence Initiative](#) in March 2023, the low number of fines imposed by OFSI to date and the lack of any criminal prosecution for sanctions breaches since 2010 suggests that there is still insufficient resourcing, affecting the effective enforcement of UK sanctions.
51. Since 2019 [OFSI](#) has imposed fines on only six entities, worth a combined £20.8 million. Since April 2022, OFSI imposed two fines totalling £45,000 (only one of which related to breaches of Russia sanctions), despite reportedly receiving at least [463 reports](#) of suspected breaches of targeted financial sanctions in 2022-2023 (excluding oil price cap and counter-terrorism breaches).
52. Enforcement by way of criminal prosecutions has also been extremely limited. There is no public record of prosecutions resulting from the NCA's [Combat Kleptocracy Cell \(CKC\)](#)'s investigations, which was introduced in 2022 to specifically target kleptocracy and sanctions evasion. Only two criminal prosecutions for sanctions violations have ever been publicly reported in [2009](#) and [2010](#). While the NCA [reported](#) that the CKC had "*secured almost 100 disruptions – actions that remove or reduce a criminal threat – against Putin-linked elites and their enablers*", there is hardly [any publicly available information](#) about their performance and the nature of the cases under investigation.
53. By contrast, individual EU Member States have taken a more forceful approach towards enforcing violations of EU Russia sanctions. For example, the Dutch Public Prosecution Service has [reportedly 45 pending criminal investigations](#) in relation to potential violations of EU Russia sanctions. In addition, [on 14 October 2023](#), it sentenced four Dutch companies and eight individuals to community service and fines totalling €160,000 for breaching EU Russia sanctions between 2014 and 2017 by helping Moscow build a bridge to Crimea, and confiscated €71,330 in profits.
54. Meanwhile the US [reported](#) in February 2024 that it had charged over 70 individuals and five corporate entities accused of sanctions evasion, export control violations, money laundering, and other offences, arrested more than 30 defendants worldwide and seized, restrained and obtained forfeiture judgements against approximately US\$700 million belonging to Russian oligarchs and others unlawfully supporting the Russian regime.

Recommendation

55. The UK Government should increase resources for OFSI, the NCA's CKC and enforcement agencies in the British Overseas Territories to build capacity for investigating and prosecuting complex sanctions evasion schemes.

The UK Government is failing to seize the opportunity to finance reparations for survivors in Ukraine through sanctions enforcement

56. The enforcement of sanctions may provide an alternative avenue for financing reparations for survivors of Russia's violations of international human rights and humanitarian law. The potential amounts that can be recovered under enforcement

penalties can be substantial: in the UK, OFSI can impose up to £1,000,000 or 50% of the value of the funds or resources involved in a sanctions violation, while a criminal conviction could result in an unlimited fine. However, there is currently no legal basis under English law for allowing these funds to be repurposed as reparations for survivors of the sanctionable conduct which the violation facilitated.

57. In the absence of such a legal basis, these fines are required to be paid into the Government's general bank account at the Bank of England (the Consolidated Fund), allowing the Government to inadvertently benefit from the violations.

Recommendation

58. The UK Government should [establish mechanisms](#) that allow for financial penalties for breaches of sanctions that relate to violations of international human rights or humanitarian law to be re-directed as reparations to survivors. There are two potential routes for the UK Government to do so:

- a) **Annual parliamentary approvals of disbursements from the Consolidated Fund:** Most payments out of the Consolidated Fund require [annual authorisation](#) by the House of Commons to remove the monies. This authorisation is usually provided via annual '[Supply and Appropriation Acts](#)', that outline the estimates that have been approved per Government department. Fines collected from sanctions violations could be released from the Consolidated Fund and sent to specific Government departments to allocate the funds to survivors. In this case, the relevant department, for example the FCDO, could request to drawdown extra funds representing the value of the fine monies via its annual '[Supply Estimate](#)' as part of its budgetary resources. To add the amounts generated by fines imposed for sanctions breaches related to international human rights or humanitarian law violations, the FCDO would need to enter into an agreement with OFSI and other UK law enforcement agencies, allowing them to drawdown the funds obtained through fines and setting out how they will be spent.
- b) **Introducing new laws to allow for the repurposing of fines:** To avoid the need for annual parliamentary approval and create a firm legal basis for the repurposing of sanctions violation penalties, the UK Government could also introduce an 'original authorising statute', for example by amending SAMLA. This could stipulate that rather than going into the Consolidated Fund, in certain circumstances, a proportion of the fines imposed for sanctions violations should be re-directed to a new or existing reparation scheme for survivors of internationally wrongful conduct.⁶ Such circumstances may include where the sanction that has been

⁶ There is currently no established mechanism by which the UK Government could pool funds and enable those who have suffered abuses abroad to access them as reparations. While existing victim compensation funds provide an avenue for reparations for domestic crimes, they are unavailable to non-UK citizens or victims of international crimes. In practice, this means that foreign victims and those who suffered human rights and international humanitarian law violations abroad are barred from claiming compensation. Any funds that could be used to repair them are either allocated on an ad hoc basis at the discretion of the Government or directed into the Consolidated Fund to fund other governmental purposes. The UK Government must introduce new laws and regulatory procedures for earmarking funds – including fines, confiscation orders, donations, or other revenue – that are linked to international human rights and humanitarian law violations and disbursing them as reparations in consultation with affected communities, and where appropriate to existing reparative mechanisms.

violated has been imposed in response to the commission of serious human rights or humanitarian law violations.