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SEIZURE OF RUSSIAN ASSETS:

When There Is The Will, Tools Are Found

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After a summer of tensions and anticipation over possible peace talks and Europe's long-term security, it has become clear that the EU must mobilize its strength and apply even greater pressure on Russia than before. A new geopolitical role is emerging – one that concerns not only support for Ukraine, but also the shaping of Europe's future security architecture. Against this backdrop, the long-standing debate on the use of the frozen Russian assets has gained new momentum, driven by the strongest political statements yet from EU leaders.

On 28 August[1], the Commission's President Ursula von der Leyen made her remarks: *"We are advancing the work on the Russian frozen assets to contribute to Ukraine's defence and reconstruction"* as a response to the devastating Russian attacks on Ukraine. A day later, on 30 August[2], the EU's High Representative for Foreign Affairs, Kaja Kallas, stated that *"frozen assets will not be returned to Russia unless Moscow pays reparations to Ukraine"*, stressing that the bloc must be ready with a plan and

[1] Statement by President von der Leyen: Russia's strikes on Kyiv will only strengthen Europe's unity and Ukraine's defiance. The European Commission. August 28, 2025. https://enlargement.ec.europa.eu/news/statement-president-von-der-leyen-russias-strikes-kyiv-will-only-strengthen-europes-unity-and-2025-08-28_en?utm_source=chatgpt.com

[2] Kallas: EU can't give back frozen assets to Russia, unless they pay reparations to Ukraine. Euronews. August 30, 2025. https://www.euronews.com/my-europe/2025/08/30/kallas-eu-cant-give-back-frozen-assets-to-russia-unless-they-pay-reparations-to-ukraine

strategy towards these funds. Taken together, these statements mark the signal that the EU is prepared to move beyond hesitation.

The EU has already implemented its intent in action – taking real steps to protect its own investors by compensating them using the Russian private assets as described in detail in this brief. The same determination must now be applied to introduce more decisive measures for supporting Ukraine's survival and Europe's long-term security with the Russian assets, too.

While the political signals are clear, the debate itself is far from over. The discussion over the use of immobilized Russian assets (primarily, foreign currency reserves of the Central Bank of Russia - hereinafter, CBR assets) to help Ukraine's self-defence and recovery have been lasting since the beginning of the full-scale invasion. Therefore, the key decision is anticipated from the EU with the stance of Euroclear and the Belgian government largely defining the EU decision-making.

Since 2022, the EU has made tangible progress regarding the use of the windfall profits stemming from the management of the immobilized assets. Yet the stance regarding the use of CBR assets in principle is still negative, even though the Russian Federation is obliged to compensate for the damages inflicted by its war of aggression as officially established by the UN General Assembly in November 2022 by its resolution ES-11/54 of November 14, 2022. Currently, even proposals to transfer the immobilized assets to an alternative structure — such as the establishment of the EU-Ukraine Trust Fund to maximize on returns — are now facing skepticism and opposition from decision-makers and Euroclear[3].

Among the concerns cited often are: "a loss of trust from third countries which could decide to withdraw their funds from Belgium or the EU," "a threat to the euro stability," "a breach of international law," "successful litigation by Russia or the CBR in response", "the retaliation of against the EU companies in response."

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[3] EU's Russian asset plan equals expropriation, warns Euroclear. Financial Times. July 15, 2025. https://www.ft.com/content/7c6ae0e9-aebf-4793-8bc1-35c695466381

However, simultaneously, the Council of the European Union (hereinafter, the Council) has made two decisions, setting an extraordinary framework to use the Russian private assets to compensate the EU CSD investors who lost their assets due to hostile actions of Russia.

In December 2024, amendments to the EU CFSP decisions[4] and related regulations allowed the use of cash balances attributable to the Russian National Securities Depository and other sanctioned Russian entities to compensate European CSD investors for losses caused by Russia's hostile measures. In July 2025, the Council prohibited[5] the recognition and enforcement of arbitral awards and court rulings and decisions by the EU courts related to investor–state disputes over the application of EU measures.

Analysis of both decisions shows that while being within the EU's broad CFSP mandate, they carry more potential risks pertaining to international law, financial aspects and reputation of European financial institutions being based on much weaker legal grounds compared to the ones that already exist for the use of the CBR assets for Ukraine. Nevertheless, these steps demonstrate that the EU is prepared to diverge from its generally stated legal principles and standards, thereby implicitly acknowledging readiness to accept the potential consequences.

While it is encouraging that the EU is prepared to act with creativity and decisiveness, such measures should not be limited to protecting European investors who made the choice to continue doing business in Russia. At present, far more than financial losses is at stake – it is Ukraine's survival as a sovereign state and the risk of further Russian aggression against EU member states.

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[4] Council Decision (CFSP) 2024/3182 of 16 December 2024 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. EUR-Lex. December 16, 2024. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202403182

[5] Council Decision (CFSP) 2025/1495 of 18 July 2025 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. EUR-Lex. July 18, 2025. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202501495

There is a strong legal case for seizure of the CBR assets as the international countermeasure based on the international customary law rules of state's responsibility. It must be viewed not as a legal anomaly, but as a necessary adaptation to the realities of modern warfare and accountability. International law, customary rules and practices are not immutable; they must evolve and adapt in response to unprecedented acts of aggression.

In this study, we are analysing the decisions of the EU Council and comparing the risks of compensation to Euroclear's investors at the expense of Russian private assets with the risks of the use of the CBR assets for Ukraine, making the case that it is exclusively a lack of political will that remains a final roadblock for the latter while the legal, financial and retaliation arguments are secondary.

I. Compensation to Euroclear's Investors At the Expense of Russian Private Assets

According to the exclusive Reuters[6] material published in May 2025, Euroclear plans to release nearly EUR 3 billion of immobilised reserves belonging to Russian individuals and entities out of the general pool of EUR 10 billion. These measures are reported to be taken as a reaction to the latest decision of the Russian leadership which resulted in actual confiscation of the same amount of assets belonging to the Euroclear's investors which have been priorly placed in Russian depository institutions and as a move to satisfy the affected investors' demands to solve the situation.

Such a decision has a profound legal ground based on the amendments to the EU legislation made within the 15th sanctions package in December 2024. This step was largely out of the public eye with most of the media coverage of that sanctions package regarding the oil price cap and extension of the list of sanctioned individuals and entities. However, this level of response from the Council within its common foreign and security policy (CFSP) mandate is truly revolutionary, completely falling out of its declared *temporary, reversible and non-punitive* nature of sanctions.

The substantive part of amendments lies in the Council amending its Decision 2014/145/CFSP[7] by introducing the new paragraph providing that:

"*33. By way of derogation from paragraphs 1 and 2 of this Article, the competent authorities of a Member State may, under such conditions as they deem*

[6] Exclusive: Europe to hand billions in frozen Russian cash to Western investors, sources say. Reuters. May 2, 2025.
https://www.reuters.com/business/finance/europe-hand-billions-frozen-russian-cash-western-investors-sources-say-2025-05-02/

[7] Consolidated text: Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. EUR-Lex. Current version July 19, 2025.
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014D0145-20250520&qid=1754317388300

appropriate, authorise the release of cash balances frozen by a central securities depository within the meaning of Regulation (EU) No 909/2014 and attributable to the entity listed under entry number 101 under the heading 'Entities' in the Annex to this Decision or to another entity listed under that heading, after having determined that:

A. *the central securities depository concerned maintains an account or accounts with the entity listed under entry number 101 under the heading 'Entities' in the Annex to this Decision;*
B. *the entity listed under entry number 101 under the heading 'Entities' in the Annex to this Decision or another entity listed under that heading maintains an account or accounts with the central securities depository holding the cash balance to be released;*
C. *the entity listed under entry number 101 under the heading 'Entities' in the Annex to this Decision has debited an amount from the account or the accounts referred to in point (a) of this paragraph, pursuant to a law, decree, regulation, judicial or administrative decision or any other measure, directly or indirectly attributable to the Russian Federation, without the prior consent of the central securities depository concerned;*
D. *the released cash balance is to be used by the central securities depository concerned to meet its legal obligations towards its participants and does not exceed the debited amount referred to in point (c) of this paragraph; and*
E. *the released cash balance is not made available in breach of paragraph 2 of this Article…"*

The relevant amendments, reflecting the rules specified above, were made to the corresponding Council Regulation (EU) No. 269/2014[8] of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine**.**

In other words, this new amendment allowed the *derogation* from the general rule providing that all the funds and economic resources of the persons, entities and

[8] Ibid., p.3.

institutions related to the organization, support, financing of the Russian aggression in Ukraine shall be immobilized and that *no such funds shall be made* available, directly or indirectly, to or for the benefit of persons and entities falling under this EU restriction and which are directly indicated in the sanctions list.

Such derogation in the form of release of funds can be applied with respect to the funds attributable to:

- ***the National Settlement Depository of Russia (NSD)*** – Russian largest securities depository. It is the only institution connected to the international financial system and recognised as an important and essential part of the Russian financial system by the CBR and the Government of Russia themselves;
- ***or any other entity listed in the annex to the same decision.*** The list includes 542 entities, including banks, plants, factories etc.

The criteria for the unfreezing and transferring frozen funds of the NSD or other sanctioned Russian entities from the list are the following:

- The EU central security depository (hereinafter, CSD like Euroclear, for instance) has an account in the Russian NSD;
- Russian NSD or another entity from the list should in turn have accounts in Euroclear, holding the cash balance to be released
- NSD should have debited money placed by Euroclear based on law, order, court ruling/decision without prior consent of Euroclear.
- Finally, the release of frozen assets by Euroclear in response should be made exclusively to fulfil its obligations before its investor.

The consequences of decisions to take the cash balances attributable to legal entities, especially other than the NSD, may constitute the breach of the number of rights and create the basis for the adjudication processes in the European Court of Justice and European Court of Human Rights (ECtHR).

For instance, the possible argument would be that freezing of transactions related to the designated entities did not stop the right of ownership for these assets and cash balances deriving from them. Therefore, by applying the irreversible paying of the

cash balance deriving from the rights of such Russian entities which in other circumstances would have returned to the owners or be reinvested by the depository upon the instruction of the issuer, the EU has violated the entities' rights. For instance, the provision of the Article 1 of Protocol 1 to the European Convention of Human Rights[9] (ECHR) (boundary for all the EU members) which provides "... *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law*".

The mandatory effect of the ECHR provisions are also prescribed on the Charter of Fundamental Rights of European Union[10] where Article 52 (3) provides: "*In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention***.** *This provision shall not prevent Union law providing more extensive protection*". Following the conclusions of the brief overview[11] of the ECtHR case - law on presumed violations of Article 1 Protocol 1, the applicability of the "public interest" concept to the compensation of the losses of CSD investors may cause certain doubts and, in general, the perspectives of the litigation upon submission of the Russian entities which are possible to be filed under Article 34 of the ECHR (except for such institutions as the NDS itself and others which are obviously qualified as governmental organizations by the Court, in this case they won't be even admissible) *may be unpredictable***.** Considering that the decision on releasing cash balances shall be implemented by the particular EU Member State, the perspective of the ECtHR case looks rather realistic.

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[9] Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, as Amended by Protocol No.11. Paris, March 20, 1952.
https://www.echr.coe.int/documents/d/echr/Library_Collection_P1postP11_ETS009E_ENG

[10] Charter of Fundamental Rights of the European Union. Official Journal of the European Communities. December 18, 2000. https://www.europarl.europa.eu/charter/pdf/text_en.pdf

[11] Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights. Protection of Property. European Court of Human Rights. Updated on February 28, 2025.
https://ks.echr.coe.int/documents/d/echr-ks/guide_art_1_protocol_1_eng

Moreover, one may argue that imposition of the CFSP measure in the way as proposed herein would not be in compliance with the basic principles and adopted approaches to the sanctions' policy as provided by the own EU Guidelines on Implementation and Evaluation of Restrictive Measures[12], officially adopted by the Council's decision. For instance, the correlation of unfreezing and using money to meet the legal obligations of depositories towards their participants does not look as convincibly correlating to the recommendation that "...*measures must be consistent with CFSP objectives, as set out in Article 21 of the Treaty on European Union (TEU)*[13]**"** (para. 2 Section II of Guidelines) and that "*the restrictive measures do not have an economic motivation*" (para. 5 of Section II of Guidelines).

[12] Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy. Brussels, May 4, 2018. https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/en/pdf

[13] Article 21 of TEU provides for the following objectives and principles of the CFSP: safeguard EU values, fundamental interests, security, independence and integrity; consolidate and support democracy, the rule of law, human rights and the principles of international law; preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter; foster the sustainable economic, social and environmental development of developing countries with the primary aim of eradicating poverty; encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade; help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development; assist populations, countries and regions confronting natural or man-made disasters; and promote an international system based on stronger multilateral cooperation and good global governance.

II. Non-Recognition and Non-Enforcement of Arbitration Awards and Court Decisions in Favor of Russian Investors

Another crucial argument the European partners voice against seizure of CBR assets for Ukraine has been litigation in Russia and enforcement of the Russian courts' decisions. However, for compensation to Euroclear's investors at the expense of Russian private assets, the EU has come up with a solution on how to mitigate this threat.

The EU CFSP legislation introduced new measures protecting member states from successful arbitration from the Russian side in the 18th package of sanctions of July 2025. These initiatives stem from the abovementioned 15th package of December 2024. However, while in December 2024 the proposed amendments covered just anti-suit injunctions, orders, judgments issued by Russian courts, in July 2025 the amendments[14] have significantly extended the scope of coverage to '*judgment of a court other than a court of a Member State or other court, arbitral or administrative decision issued in proceedings other than those in the Member States pursuant to or derived from investor-State dispute settlement proceedings in connection with measures imposed under Decision 2014/512/CFSP or 2014/145/CFSP, or Regulation (EU) No 833/2014 or Regulation (EU) No 269/2014*' and also that the '*The effective implementation of the no claims clause should be regarded as the public policy of the Union and the Member States for the purposes of the recognition and enforcement of arbitral awards or judicial or administrative decisions.*"

Moreover, the amendments provide that '*Where Member States are confronted with arbitral awards rendered against them in investor-State dispute settlement proceedings in connection with measures imposed under Decision 2014/512/CFSP or 2014/145/CFSP, or Regulation (EU) No 833/2014 or (EU) No 269/2014, they should invoke any objection available to them in domestic or foreign proceedings for the recognition and enforcement of such awards. This includes raising the objection*

[14] Council Decision (CFSP) 2025/1495 of 18 July 2025 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. EUR-Lex. July 18, 2025. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202501495

that the recognition or enforcement of the award would be contrary to the public policy of the country where recognition and enforcement is sought, pursuant to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958'.

In other words the proposed and adopted new provisions to the Council's Decision 2014/512/CFSP and following amendments to the Council Regulation (EU) 2025/1494[15] provide that any decision of the court or the investment arbitration tribunal issued upon the claim of the Russian investor in Russia or any other jurisdiction outside the EU against any EU state based on measures undertaken by it considering, inter alia, immobilization of transactions with Russian CBR assets, may not be recognised and enforced by the court of this particular state.

The new amendments also explicitly provide that the states should try their best in applying any possible and legitimate objection/suspension not to let the decision be recognized and enforced.

Finally, the direct prohibition of the recognition and enforcement of the court and arbitral rulings, awards, decisions is itself considered to be the 'public policy' of the EU within the meaning of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) binding for all the EU Members.

Such an explicit and direct wording of the CFSP decision and the respective Regulation is marks another revolutionary and deviative step considering the general principles of law and traditions of their application, though being completely within the scope of the actual non-restricted mandate of the EU to take CFSP decisions.

First of all the '*implementation of the no claims clause*' as set forth in the amended Council's decision *as the part of the public policy of the EU and Member States* for the purposes of recognition and enforcement of the arbitral awards and decisions

[15] Council Regulation (EU) 2025/1494 of 18 July 2025 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. EUR-Lex. July 18, 2025. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202501494

looks extraordinary. The issue here is that for the purposes of the recognition and enforcement of the arbitral awards through national courts, such recognition and enforcement may be refused based, inter alia, on the finding of the competent authority (court, for instance) that such recognition or enforcement would be *contrary to the public policy* of this country.

The 'public policy' concept is very complicated and covers various approaches and interpretations both in legal academic circles as well as in legislative, litigation and state policy practice. In general, 'public policy' is the complex of the official framework of state political concepts, actions and instruments including laws, regulations, which national governments implement to achieve social and economic goals. Each particular legislation and/or case law may provide its own definition of the 'public policy' or its peculiarities. Nevertheless, as for the recognition and enforcement of arbitral awards in national jurisdictions, violation of the public policy which would happen in case of recognition and enforcement of the decision would be a solid ground to deny such recognition and enforcement.

However, the risks are posed not by a defense mechanism against the arbitral award as such but by its particular form, introduced by the Council.

The absolute majority of the "public policy" clauses generalized and systematized by the distinguished scholars[16], including the description and interpretation embodied in the Annotated List of Topics[17] published on the official website[18] of the New York Convention, divide the applied 'public policy' approaches to procedural which include violation of the right to be heard or of due process; violation of equal opportunity to present one's case; the award is obtained by fraud or is based on

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[16] New York Convention: Public Policy Exception. Jansen Denise, Dr Willcocks Andrew, Jus Mundi. June 25, 2025.
https://jusmundi.com/en/document/publication/en-new-york-convention-public-policy-exception

[17] New York Convention of 1958.
https://www.newyorkconvention.org/media/uploads/pdf/9/7/97_list-of-topics-descriptions-29-sep-2013.pdf

[18] Commentary on the New York Convention.
https://www.newyorkconvention.org/resources/publications/commentary

falsified documents; award is obtained following bribery of or threats to an arbitrator and substantial covering EU antitrust and competition law; *pacta sunt servanda* (obligations under international treaties); equality of creditors in insolvency situations; state immunity; prohibition of punitive damages; prohibition of excessive interest; non – arbitrability of disputes which is directly indicated as an element of public policy by law. Despite the fact that courts and laws of different states provide substantial distinctions between the definition of the 'public policy', it is either national or international, or transnational nature, the main feature which unites all the approaches is general: *public policy is a rule or restriction, or exclusive decision of the governing authorities of the state which comes into a conflict with the legitimate right of the winner in arbitration to recognize and enforce the decision in his/her favor and as a result of the court's consideration the court finds it impossible to recognize and enforce such decision in its state.*

However, identifying the direct prohibition to recognize and enforce the limited types of decisions as the public policy of all the EU Member states is something unprecedented and may be considered as the one undermining the core sense of the 'public policy' concept when applied to international arbitration rules. By making such amendments, the EU legislator takes the role to decide on whether the award should be recognized and enforced, instead of the court and is ultimately deciding this issue politically, by adopting Council's decision and corresponding amendments to the Council's Regulation.

Following the particular example, the newly adopted amendments mean that arbitral awards issued against the EU Members by the Arbitration Court of the Stockholm Chamber of Commerce or *ad hoc* arbitration court acting based on the UNCITRAL Arbitration Rules as provided for in the 1989 Bilateral Investment Treaty between the USSR and Kingdom of Belgium/Luxembourg[19] (with rights and obligations succeeded by Russia from the USSR) which might be successful for Russian investors who had lost their assets *shall not even be considered by the court regarding the existence of*

[19] Accord Entre Les Gouvernements Du Royaume De Belgique Et Du Grand Duché De Luxembourg, Et Le Gouvernement De L'Union Des Républiques Socialistes Soviétiques Concernant L'Encouragement Et La Protection Réciproques Des Investissements.

procedural restrictions or prohibitions related to the merits of the award, they will not be recognized and enforced automatically[20]. This also makes the stage of the court consideration to be an unnecessary formality, causing ungrounded expenses from the state and investor for organization of the procedure. Finally, the fact that according to the text of the amendments the courts of the Member States are instructed to '*invoke any objection available to them in domestic or foreign proceedings for the recognition and enforcement of such awards*' is a direct undermining of the courts' jurisdiction and their discretion as the judicial power to make decisions within their mandate.

[20]https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/7014/download

III. The Risks of Existing Decisions vs the Risks of Using the CBR Assets for Ukraine

Let us address each concern in turn to demonstrate that the current EU decision entails far greater risks than the use of CBR assets for Ukraine.

	Compensation to Euroclear's Investors With Russian Private Assets	***Use of the CBR Assets for Ukraine***
1. Correspondence with the EU and international law. Opponents of the use of the CBR assets for Ukraine provide a range of legal barriers to it—including irreversibility of this measure, the punitive nature of such measures thus allegedly inconsistent with the nature of the EU CFSP measures, the lack of the EU competence, and even claims that such action would amount to a "declaration of war." At the same time, a similar set of arguments regards the decisions on the use of Russian private assets, too.		
Legal justification of the process	Permanent deprivation of rights to private assets belonging to the Russian companies or individuals is a measure requiring solid justification since the violation of a natural and legal person's rights, procedural guarantees and standards of their protection arise based on the European Convention of Human Rights and Charter of Fundamental Rights of the EU.	Numerous distinguished international law experts made a strong detailed legal justification that confiscation of Russian CBR assets would be the lawful international counter-measure based on the rules of international customary law codified in Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA)

	According to existing rules and practice, private assets may be confiscated either through the criminal proceeding, including based on sanctions evasion, civil forfeiture with necessity to establish the tort committed or be expropriated for justified public purposes with established compensation to owners. Private assets cannot be randomly taken to compensate for other investors' losses.	applied to force the perpetrator (Russia) to complete its international obligations and taking the necessary decision would completely be within the competence of the engaged states to take the relevant foreign policy decision. On November 14, 2022, the UN General Assembly adopted the Resolution ES-11/5 in which it was recognized that the Russian Federation must be held accountable for all violations of international law against Ukraine and bear the legal consequences of its internationally wrongful acts by compensating the losses and damages to Ukraine.
Proportionality	The decision taken by the Council gives Euroclear and other depositories a very wide scope of assets for use in order to compensate their investors. Thus, Euroclear and other EU CSDs are allowed to use immobilised Russian private assets not only from the Russian National Security Depository (NSD) accounts but	The use of the CBR assets worth nearly USD 300 billion in total will not even fully compensate for Ukraine's reconstruction and recovery needs that according to the estimation of the government of Ukraine, the World Bank, the European Commission as

	accounts of any other sanctioned Russian companies from the particular list in response to the NSD actions related to Euroclear's assets placed on its accounts. Such a decision to unfreeze and pay out the funds of any Russian entity whose assets Euroclear and other CSDs hold could raise a serious issue of proportionality.	of December 31, 2024, amounted to USD 524 billion.[21] The connection between the assets and Russia's international obligations is clear and direct: CBR reserves constitute state assets of the Russian Federation, which is currently waging a war of aggression against Ukraine and it is the recognized violation of international law.
Reversibility	Unfreezing of assets belonging to Russian investors and their use for the compensation to European investors cannot be reversed.	While the opponents of seizure as countermeasure often cite irreversibility as the main obstacle, it is important to note that Russia's international obligations include not only stopping the aggression, but also compensation for the damages so the reversibility will be provided by ***offsetting the future reparation payments.***

[21] Updated Ukraine Recovery and Reconstruction Needs Assessment Released. The World Bank Group. February 25, 2025. https://www.worldbank.org/en/news/press-release/2025/02/25/updated-ukraine-recovery-and-reconstruction-needs-assessment-released

		The G7 and the EU countries committed to keep CBR assets immobilized in their jurisdictions until Russia ends its aggression and pays for the damage it has caused to Ukraine. Given that in the ongoing "peace talks" Russia claims for unoccupied parts of the Donetsk region, it will not voluntarily agree to pay any reparations. It would therefore be a grave inaction to neglect this money essential for Ukraine's long-term survival, defence and recovery.
Powers of the EU	The EU law acts do not provide the explicit and direct powers to irreversibly take the assets of foreign investors for compensation to their own investors. However, the Council of the EU decisively used its CFSP mandate and introduced such measures through two decisions of December 2024 and June 2025. Moreover, earlier the Belgian Prime Minister De Wever called potential seizure of the CBR	Similarly to compensation for Euroclear investors, currently, the EU treaties do not explicitly establish the powers to confiscate foreign states' property. However, the EU law leaves wide discretion for the Council to make such a decision within the CFSP authorities and general principles of the EU functioning. Such a step will be completely in line with

	assets as an act of war[22]. It is not clear why unprecedented de facto confiscation of private assets by Euroclear is not perceived by Belgium as a similar risk.	the principles established in Article 3 (5) of the Treaty on European Union[23], due to which in its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens, contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. That gives a solid ground for the EU to apply all the necessary actions as for the Russian state assets

[22] Seizing frozen Russian assets is 'an act of war,' says Belgian PM. Politico. March 21, 2025. https://www.politico.eu/article/seizing-russian-frozen-assets-act-of-war-belgian-pm-bart-de-wever/

[23] Consolidated Version of the Treaty of the European Union. EUR-Lex. October 26, 2012. https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

		to bring aggressor to international responsibility and protect Ukraine.
2. Trust in EU institutions, currency and the outflow of investors This argument has two dimensions: first, that third countries might withdraw their forex reserves from Western currencies; and second, that private investors might flee, perceiving heightened risks for private capital in the Western jurisdictions.		
Forex Reserves and Stability of the Euro	Forex reserves - N/A. The stability of the euro was not anyhow affected by the mentioned decision of the Council since December 2024. On the contrary, despite the decision declaring the unfreezing and use of Russian private assets, the exchange rate of euro to other major currencies like USD, JPY, CAD etc has significantly increased (due to other economic factors). Moreover, with its current currency exchange rate against the USD soaring for nearly 14%, the ECB officials are presently concerned of the possibility of the overly strong euro[24].	Stability of the euro and its standing as a reserve currency were not undermined by any of the following steps: - the initial immobilization of CBR assets in the first days of the full-scale war, - the decision to segregate windfall profits on CBR assets immobilized in CSDs in the EU; - the decision to use windfall profits for procuring weapons for Ukraine in 2024; - the launch of the G7 ERA Loan program, etc. As of 2024 the share of the euro in global foreign

[24] ECB officials question whether euro has strengthened too much. Financial Times. July 3, 2025.
https://www.ft.com/content/d9ecb4b4-5056-4182-8163-c54b41e35a0b

		reserves remains nearly 20%. In addition, on July 10, 2025 British investment banker Timothy Ash, senior sovereign strategist at RBC Bluebay Asset Management, who has 25 years experience working in the City of London, including for international financial institutions such as JP Morgan/Bear Stearns, Royal Bank of Scotland, Royal Bank of Canada, and others, debunked[25] the risks that third countries would divert their reserves from G7/Western jurisdictions: "- *The move to immobilise CBR assets in 2022 saw little movement of other assets out of G7 jurisdictions, or impact on asset prices, and there is little difference in perception from investors between immobilisation and seizing as the FX reserves have been put*

[25] The economic case for seizing CBR assets. Timothy Ash. https://timothyash.substack.com/p/the-economic-case-for-seizing-cbr

		beyond the reach of Russia. *- There was no movement out of G7 reserve assets as there are few liquid alternatives to G7 currency and bonds for the $7 trillion in FX reserves of states such as China, India and the Gulf states.* *- Any move by Saudi, China et al to away from G7 reserve currencies/bonds would be self defeating - it would crash bond prices, and the value of their own portfolios (they would suffer immediate huge mark to market losses), global interest rates would rise, expectations of global growth would drop resulting in lower oil and commodity prices (hurting Saudi Arabia, et al and risking their dollar pegs) and actually would then encourage a flight back to quality, back to the dollar, Euro, Sterling, bunds, et al, and hence would increase the reserve currency status of*

		G7 assets, so would prove counterproductive. It is not going to happen as Saudi, China et al value global market stability above all else."
Private investors response	Allowing Euroclear and other CSDs to take out private Russian assets in order to compensate its investors, as a response to hostile actions by the Russian government, could reasonably have raised concerns among investors from other autocratic states, whose assets might likewise be at risk in the event of any hostile actions of their governments toward Western interests. However, there have been no reports of significant capital withdrawal from European markets by major investors, particularly the ones from China or Saudi Arabia in response to these measures starting from December 2024. On the contrary, the media report the actual capital flows into European assets during the first half of 2025, since "investors pile into European	If private investors from third countries have not responded with immediate withdrawals to the EU's *de facto* confiscation of private assets belonging to Russian companies and individuals – a measure that could arguably set a direct precedent for them – the perceived risk for the use of CBR assets for Ukraine is significantly overstated.

<table>
<tr><td></td><td>assets to shelter from US policy volatility.”[26]</td><td></td></tr>
<tr><td colspan="3">3. Risks of litigation
The risk of Russia challenging the seizure of its assets is consistently cited among the key obstacles to the final solution of the issues of Russian assets. While Euroclear refers to potential litigation in Russian courts, with their decisions possibly being enforced in other jurisdictions, the arguments also extend to the risks of Russia pursuing cases in international courts and investment tribunals or before national courts in the EU member states.</td></tr>
<tr><td>Russian and third-state courts</td><td>The decision on direct prohibition to recognize and enforce the decisions, rulings and awards of foreign (non-EU) courts and investment tribunals was taken in order to shield Euroclear and other CSDs from litigation risks. Despite its disputable legal nature this will actually be the effective remedy to protect CSDs’ and EU property and assets from alienating within the enforcement procedure.

This also means that the Belgian-Russian BIT argument is not an obstacle, though it was regularly cited as a threat, discussed at the political level</td><td>Euroclear has a substantial financial reserve for protecting itself effectively. In early 2024, the EU allowed Euroclear to keep profits made in 2022-2023 from managing immobilized assets amounting to EUR 3,851 billion as well as keep retaining up to 10% of the “windfall contribution” for protection from various risks, including legal and cybersecurity threats.

As part of the decision on the use of the CBR assets for Ukraine, the EU can</td></tr>
</table>

[26] ECB officials question whether euro has strengthened too much. Financial Times. July 3, 2025.
https://www.ft.com/content/d9ecb4b4-5056-4182-8163-c54b41e35a0b

	and in the media.[27]	make a similar decision that prevents enforcement of the rulings/decisions related to the possible successful challenging of the confiscation of CBR assets. Since 2022 the concerns of the possible Russian litigation counter-attack under the BIT protection mechanism (allegedly possible to be invoked by the CBR) have been regularly expressed as a ground making the use of assets' principal impossible. The case with the use of Russian private assets proves that this argument is overstated, too.

[27] Russen proberen bevroren rekeningen in België te deblokkeren op basis van oud verdrag met Sovjet-Unie. HLN. January 17, 2024. https://www.hln.be/nieuws/russen-proberen-bevroren-rekeningen-in-belgie-te-deblokkeren-op-basis-van-oud-verdrag-met-sovjet-unie~aa9460d1/

EU national courts	The decision of the Council does not address the risk of Russia or Russian individuals or entities possibly filing a lawsuit to national courts e.g. in Belgium which may likely become the first place Russian investors may challenge the CSDs operations with their immobilised assets. Nevertheless, the existence of this risk did not prevent the EU from making this step.	Within our research into national legal systems of France[28] and Germany[29], the ICUV studied the chances of Russia challenging the seizure of the CBR assets in their national courts. According to our findings the chances of such litigation either through constitutional procedure or through the administrative courts are extremely low both as for the admissibility to the procedure and on merits. Considering that the Belgian law system is historically and structurally alike the French law system (was built on Napoleonic codes), one may assume that the situation in Belgian courts will be similarly unfavorable for Russian plaintiffs.

[28] France. Legal Aspects of Possible Confiscation of Russian Central Bank's Assets and Related Risks. Regis Bismuth for the International Center for Ukrainian Victory. May 25, 2024. https://ukrainianvictory.org/wp-content/uploads/Confiscation-of-russian-Central-Banks-assets.pdf

[29] Make Russia Pay: On the Confiscation of Assets of the Russian Central Bank in Germany. Dr. Patrick Heinemann for the International Center for Ukrainian Victory. February 26, 2024. https://ukrainianvictory.org/publications/confiscation-of-russian-assets-in-germany/

European Court of Justice, interna-tional courts and tribunals	The consequences of decisions to take the cash balances attributable to legal entities, especially other than the NSD, may constitute the breach of the number of rights and create the basis for the adjudication processes in the European Court of Justice and European Court of Human Rights (ECtHR) as violating the rights of third parties as legal persons under the 1950 European Convention on Human Rights and Charter on Fundamental Rights of the European Union, as analysed above. While the ICUV analysis of prospects of possible challenging seizure of CBR assets by Russia or CBR in different regional (European) and international courts and tribunals (including investment tribunals), prove that they are highly doubtful, the possible investment arbitration procedure initiated by Russian investors based on their infringed rights will be much easier; status for admissibility purposes and consideration on	ICUV has studied the prospects of a possible challenging seizure of CBR assets by Russia or CBR in different regional (European) and international courts and tribunals (including investment tribunals)[30], coming to the conclusion that such prospects are highly doubtful. For instance, the case law of the European Court of Justice as brightly demonstrated in 2023 decision in case *Venezuela v Council of the European Union* shows that while such applications may be found admissible, the EU justice protects the right of the EU to have broad discretion in foreign policy and security measures. As for the case law of the European Court of Human Rights there are serious barriers for the

[30] Confiscation of Russian sovereign assets: perspectives of adjudication in the international courts. Andrii Mikheiev, International Center for Ukrainian Victory. May 14, 2024. https://ukrainianvictory.org/publications/research-confiscation-of-russian-sovereign-assets-perspectives-of-adjudication-in-the-international-courts/

	merits will not enjoy the arguments of unlawful aggression and violation of the peremptory rules of the international law: the particular guilt of each such entity and its connection to the Russian aggression will have to be proved.	CBR's application for compensation for an alleged violation of its property rights and Russia's participation in the inter-state dispute may not be considered since Russia withdrew from the Convention and the Council of Europe in 2022. While earlier Russian Gazprom and Rosneft did manage to fit under the ECtHR criteria of "non-governmental organizations", the chances of the CBR as an exclusive financial regulator with powerful authorities to be found admissible for the claim look bleak. Moreover, the chances to gain success based on an alleged violation of the ECHR (Article 1 of the Protocol 1 to it) also does not seem high due to the ECtHR case-law. Filing the claim to the UN International Court of Justice looks the most complicated procedurally for the Russian Federation since it would need to first file the declaration on

		recognition of the ICJ compulsory jurisdiction. Russia would be then able to claim only against states which have also submitted the same declarations before. While such states may alter their own declarations in a way to block Russia claiming them, and some of declarations e.g. of the UK, Germany, or Canada already contain reservations preventing claims under new declarations, they may also use this dispute to file retaliatory claims against Russia regarding its grave violations of international law. Therefore, the number of complexities and risks for Russia prevail over opportunities. Finally, in case of filing by the CBR of a claim to the *international investment tribunal* the CBR will face barriers and risks on each stage of consideration: finding admissible as an investor, winning on merits or enforcing such award afterwards.

		Moreover, the current approach of international courts and tribunals on the merits of similar cases shows that lawful confiscation conducted within the regulatory powers of the state have often been found as lawful non-compensable expropriation. Finally, investment arbitration case-law shows that tribunals approve lawful international countermeasures applied according to the international customary law which is totally the case of the possible seizure of the CBR assets.
4. Risks of retaliation Western governments fear that in case of the use of Russian assets for Ukraine, Russia may retaliate by confiscating the assets of Western companies there.		
Retaliation spiral	Following the logic that any act of confiscation in the West could potentially trigger so-called "retaliatory measures" by Russia, it remains unclear how such risks would be mitigated in the future.	Western countries hold no Forex reserves in Russia, which means that no direct "retaliation" is possible. Nevertheless, the threat of retaliation has been among top arguments

		against the use of the CBR assets for Ukraine, the ICUV explored[31] that the Russian government has begun de facto confiscation of Western companies' assets on a large scale much earlier and unrelated to the potential Western confiscation of the CBR assets (e.g. Danone, Carlsberg, ExxonMobile etc). The process started in the early days of the full-scale war with restrictions on dividend payments from securities and ultimately progressed to gaining full control over market exits and asset sales pricing. Many companies have fallen under the control of Putin's allies, with some being effectively expropriated without any compensation provided. Should Russia keep confiscating additional private assets calling it a response to the CBR

[31] "Retaliation argument": Russia started expropriation of Western assets before the West seriously began seeking solutions to confiscation of Russian assets. Andrii Mikheiev, Olena Halushka, International Center for Ukrainian Victory. January 11, 2024. https://ukrainianvictory.org/publications/brief-fear-of-retaliation-makerussiapay/

		seizure, Euroclear has the capacity to provide compensation through the same mechanism established by the Council in its decisions of December 2024 and June 2025.

The breakdown demonstrates that risks exist both in using Russian private assets to compensate European investors and for the seizure of Central Bank of Russia reserves, with the former being even riskier due to much weaker and more questionable legal grounds. Yet when the EU has the political will and a direct stake, property limitations, arguments of international law, or financial concerns no longer appear to serve as constraints.

Therefore, this precedent demonstrates that the EU institutions perceive their authorities to act within the CFSP mandate established by the Treaty on European Union as broad and largely unrestricted.

CONCLUSIONS

Two latest decisions of the Council set a new extraordinary frame for *de facto* confiscation of Russian private assets within the interests of the investors of the EU CSDs.

In December 2024, the amendments to the EU CFSP decisions and correlating regulations allowed to use the cash balances attributable to Russian National Security Depositary as well as any Russian entity sanctioned under the same CFSP measure to cover the losses of the European CSD investors which lost the respective funds based on hostile measures in Russia. Then, in July 2025, the Council ruled the direct prohibition to recognise and enforce in the EU of the arbitral awards and court decisions related to the investor-state disputes over application of the EU measures, including the abovementioned use of the cash balance attributable to Russian investors as well as the immobilization of the CBR assets through ruling such prohibition to be a 'public policy' measure and directly instructing the EU courts to invoke any possible objection.

The analyses of both measures show that while they lie completely within the scope of the actual non-restricted mandate of the EU to take CFSP decisions, there is a potential risk pertaining to the international legal grounding, economy and reputation of the European financial institutions, as well as the stability of the euro. Nevertheless, that did not stop the EU from making these decisive measures that go way beyond the mutually recognised and applied law principles, concepts and practice.

At this point, the EU has moved to target selected private assets of Russian entities or individuals and use them to compensate European investors for losses stemming from their own investment choices, while simultaneously refraining from seizing CBR reserves for compensation of Ukraine's losses and damages and self-defence of Ukraine which has a far stronger legal case based on the international law rules and position fact that the Russian Federation is officially obliged to compensate for the damages inflicted by its war of

aggression as officially established by the UN General Assembly in November 2022 by its resolution ES-11/54 of November 14, 2022.

Such extraordinary measures that the EU has lately taken to defend their investors hurt by the hostile actions in Russia through using Russian private assets to compensate them prove again that the seizure of CBR assets for Ukraine is lying primarily in the political dimension rather than the international law or financial field.

The new geopolitical reality requires the European countries to make extraordinary investments into supporting Ukraine, covering their own share and stepping up the procurement of American weapons for Ukraine, as well as simultaneously require massive investment into their own security and defence to reach the 5% GDP for defence target. The moment has arrived to rethink previous reluctance to make Russia pay for the war it has started and intends to expand.

Therefore, we urge the EU and EU member states to follow their own example and take logic and decisive actions aimed to use the CBR assets for the needs of Ukraine via:

- segregating them from the total mass of funds to separate accounts;
- establishing the EU-Ukraine Trust Fund and transferring CBR assets there from all the EU member states, as well as offering other states like the UK, US, Canada, Japan, Switzerland and Australia to follow the lead and join;
- tasking the newly established Trust Fund with active management of assets (for example, the Norway Wealth Fund has generated[32] an annualised return of 6,44% between 1 January 1998 and the end of the first half 2025. Meanwhile, according to Timothy Ash, a portfolio of the emerging markets assets could generate[33] even more, a 10% yield);
- seizing the assets fully for Ukraine's defence, recovery and compensation to the victims.

[32] Returns. Norges Bank Investment Management.
https://www.nbim.no/en/investments/returns/
[33] Opinion: Answering your burning questions on Russia's frozen assets. Timothy Ash for the Kyiv Independent. April 9, 2024.
https://kyivindependent.com/opinion-answering-your-burning-questions-on-russias-frozen-assets/

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