

Title: A pivotal year for international sanctions and economic statecraft

Overview: The EU's failure to reach consensus on confiscating frozen Russian assets reflects mounting legal concerns and political opposition, with states potentially using legal risk to avoid difficult decisions. As geopolitical tensions intensify, western democracies must balance bolder sanctions enforcement against preserving trust in the international rules-based order, shaping the 2026 landscape for sanctions and asset seizure.

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Full Article

In brief

- The EU has failed to reach a consensus on confiscating frozen Russian assets due to legal concerns and opposition from Hungary and Italy.
- The seizure of Russian assets would require new legislation, but states could be using legal concerns to avoid politically difficult decisions.
- The 2026 sanctions landscape faces mounting geopolitical tensions requiring western democracies to balance bolder enforcement strategies against preserving trust in the international rules based order.

Introduction

In the midst of increasing global instability, 2026 is likely to be another critical year of sanctions developments. One such key decision will be whether western European governments can use frozen Russian assets to fund Ukraine's defence.

On 19 December 2025, EU leaders agreed to lend Ukraine €90 billion over the next two years, but failed to agree on seizing and utilising an estimated €210 billion in frozen Russian state assets to provide a further loan to Ukraine. The frozen assets primarily comprise the cash maturities from Russian investments in western government bonds held by Brussels-based clearing system Euroclear. Interest from these investments has already been used to service the interest on EU loans to Ukraine. However, the EU has been hesitant to make the leap to outright confiscation of assets still owned (although frozen) by Russia.

A key obstacle to agreement on confiscation was Belgium's need for sufficient protection against potential Russian litigation and the risk that Ukraine would default on the loan. Russia's central bank has already filed a claim against Euroclear in Moscow. Further pushback came

from Hungary and Italy. Hungary's Viktor Orban has opposed the proposals from the start, although the EU proposal invoked emergency powers to avoid the need for unanimity in anticipation of this. Italian prime minister Georgia Meloni is a close ally of the Trump administration, which opposes the EU's proposals.

Instead of lending confiscated Russian assets, the agreed loan will be raised on capital markets and secured against untapped spending in the EU's budget. The British Government has also since ruled out its own attempt to use approximately £8 billion in frozen Russian assets held by UK banks to fund aid to Ukraine. The UK has stated that it would only deploy frozen Russian assets in line with Australia, Canada and the EU.

This raises the question: are states deploying legal concerns as a shield to avoid politically challenging decisions?

Historical context

The concept of seizing state assets to provide reparations is not without precedent in international law. During and following both World Wars, the Allied powers confiscated substantial assets from defeated nations through the Treaty of Versailles and the Paris Reparations Agreement. A more recent precedent emerged following Iraq's invasion of Kuwait. The UN Compensation Commission, awarded roughly \$52.4 billion in compensation for 1.5 million successful claims, was partly funded by a percentage of Iraqi oil revenues. This mechanism demonstrated the international community's acceptance of using an aggressor state's assets to compensate victims, although nations relied upon the UN Security Council Resolution 687 (1991) in this case.

What distinguishes the proposed confiscation of Russian assets from these historical precedents is the absence of either a peace treaty or a UN Security Council resolution authorising such action. Russia's Security Council veto makes the latter politically impossible. Although Russia is arguably obliged to make reparation payments to Ukraine following UN General Assembly Resolution ES-11/5 in 2022, any confiscation would require existing political frameworks to introduce new legislation, including to mitigate the risk of challenge.

UK position

UK sanctions laws allow for the freezing of assets, but do not make provision for the state seizure of those frozen assets. Seizing frozen assets would require primary legislation - either a new Act of Parliament or amendments to the Sanctions and Anti-Money Laundering Act 2018 (the primary legislation for sanctions in the UK). The legislation would have to: (a) enable the UK Government to seize frozen Russian state assets held in financial institutions subject to UK regulation (this would be complex to define in itself); and (b) protect the Government and those financial institutions from legal challenge in the domestic courts.

The UK legal system already permits state interference with property rights in other contexts. The Proceeds of Crime Act 2002 (POCA) includes a confiscation regime allowing the state to seize assets, in both the criminal and civil courts, that are the proceeds of crime or are intended to be used in the conduct of crime. The House of Lords described the purpose of the confiscation regime as being to punish offenders, deter crime, and reduce the available profits

of crime. Similar aims can be translated into the Russia context as the UK and its allies look to weaken the Russian economy and force President Putin to the negotiating table on terms favourable to Ukraine.

However, whilst the POCA analogy is instructive, extending the UK's asset seizure powers to frozen sovereign assets would nonetheless represent a significant extension of the law.

Parliamentary sovereignty theoretically permits the UK parliament to pass primary legislation providing for asset seizure if sufficient political consensus can be reached, but such legislation could still face legal challenges. Although the recent UK Supreme Court decision in *Shvidler v Secretary of State* evidences the judiciary's willingness to give the Government a wide margin of indulgence even when sanctions interfere with civil liberties ([read more on the decision here](#)), this would represent a major incursion into established property rights under the common law and may test the limits of the deference shown to the Government. Primary legislation preventing domestic legal challenge is also controversial, as demonstrated by the House of Lords' persistent opposition to the Illegal Migration Bill under the previous Government, and could itself be challenged as unconstitutional – although this is a largely untested area of law.

Potential challenges by Russia

If the UK were to enact legislation permitting the state seizure of Russian assets, Russia would have two primary means of recourse.

First, Russia could bring a human rights challenge domestically and, if unsuccessful, potentially before the European Court of Human Rights in Strasbourg. Article 1 of the Protocol to the European Convention on Human Rights (ECHR), which is enshrined in UK law in the Human Rights Act 1998, protects the property rights of natural and legal persons. Whilst state interference with property is permitted in the public interest, it must be proportionate and lawful. UK political appetite for this legal battle may be limited as the Government is already facing pressure from some quarters to withdraw from the ECHR. It is also important to note that Russia ceased to be a party to the ECHR on 16 September 2022 following its invasion of Ukraine, so there may be questions over its standing to bring any claim before the Strasbourg court.

Second, Russia could mount a challenge under the 1989 Bilateral Investment Treaty between the UK and Russia (formerly the Soviet Union). This treaty provides substantive protections to Russian investors, including protection against expropriation without prompt, adequate and effective compensation, and guarantees of fair and equitable treatment. There are questions as to whether the Russian state would count as an "investor" for the purposes of the UK-Russia Treaty, which defines investors as natural persons or entities incorporated under the laws of the relevant state, and whether the Russian state could enforce its terms in light of this definition.

The sanctions landscape in 2026

As the war in Ukraine enters its fourth year in 2026 and peace talks have yet to bear fruit, it seems likely that Russian sanctions will remain the focus in 2026, particularly for European countries. As billions of dollars in Russian assets remain indefinitely frozen, the distinction between freezing and confiscation becomes increasingly semantic. Whilst the EU's failure to reach an agreement appears to result from concern over legal challenge, countries may be using litigation risk as cover for what is fundamentally a political reluctance to take such a drastic step. As the war continues, and as global conflict increases, states will need to embrace bolder strategies to finance Ukraine's and perhaps their own defences.

However, the precedent that sovereign assets can be confiscated to fund a third party could have far-reaching implications for international financial relations and weaken trust in western democracies' adherence to the rule of law and respect for property rights. This comes into sharp focus in the context of the US' recent military operation in Venezuela, the removal of President Maduro and the seizure of a Russian-flagged tanker in the North Atlantic, reportedly carrying Venezuelan oil. Whilst the US, EU and UK each have Venezuela sanctions regimes, with the US being the most comprehensive, it will be interesting to observe how these develop if the Trump administration "runs" Venezuela, as it has stated it intends to do.

Another jurisdiction to focus on this year will be Iran. Peaceful protests which started at the end of December 2025 have quickly turned violent. Iran's economy is suffering from soaring inflation, made worse by US sanctions and recently re-imposed UK and EU sanctions, and the

Iranian government is widely considered to be at its weakest point in decades. The US operation in Venezuela has also limited Iran's circle of trading partners.

Equally, although China has condemned the US' actions in Venezuela, it remains to be seen whether this will embolden China towards Taiwan and how this would impact the global sanctions landscape. As 2026 unfolds, the international sanctions landscape faces unprecedented challenges that could test the boundaries of international law and the cohesion of Western alliances. Decisions this year will not only shape the immediate geopolitical landscape but will also establish critical precedents for the future of international legal and economic relations.