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Tracking the proceeds of the crime denounced by Sergei Magnitsky and holding its perpetrators accountable

Report[1]
Committee on Legal Affairs and Human Rights
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1. Reference to committee: Doc 15981, Reference 4815 of 24 June 2024.

A. Draft resolution[2]

1. The Parliamentary Assembly reaffirms its unwavering commitment to combating impunity for perpetrators of serious human rights violations and to combating corruption, which poses a threat to the rule of law. It reiterates its call for all those responsible for the death of Sergei Magnitsky, as well as the beneficiaries of the fraud he uncovered, to be held accountable.

2. Referring to its Resolution 1966 (2014) "Refusing impunity for the killers of Sergei Magnitsky", the Assembly recalls that Sergei Magnitsky, a Russian tax adviser and auditor, uncovered a massive fraud perpetrated by Russian Government officials and accomplices involving the embezzlement of approximately US$230 million through the fraudulent appropriation of tax rebates from the Russian Treasury. Mr Magnitsky revealed that the scheme was executed through the illegal seizure of companies belonging to his client, Hermitage Capital Management, and the subsequent fabrication of official documents. In retaliation for his revelations, Mr Magnitsky was arrested, subjected to inhuman and degrading treatment and denied medical care, and ultimately died in a Moscow prison in 2009. He was posthumously convicted of tax evasion. The international responsibility of the Russian Federation for his ill-treatment, death and conviction was legally established in a judgment of the European Court of Human Rights in 2019, which found multiple human rights violations in his case. All criminal cases within the Russian Federation against the officials involved in Mr Magnitsky's ill-treatment and death have been closed, with no one being held to account. Some of them were publicly commended by senior officials of the Russian Federation, and others received promotions.

3. Proceeds of the crime exposed by Mr Magnitsky were laundered through a complex network, potentially involving waystations in several States, including the Russian Federation, Belgium, Cyprus, Estonia, France, Latvia, Lithuania, Luxembourg, the Republic of Moldova, Monaco, the Netherlands, Spain, Switzerland, the United Kingdom, the United States of America and the United Arab Emirates.

4. The Assembly welcomes that many member and observer States of the Council of Europe, including Switzerland, opened investigations into the reported laundering of proceeds originating from the fraud against the Russian Treasury. It deeply regrets that several other member and observer States either did not open such investigations (Austria, Canada, Denmark, Finland, Sweden, and the United Kingdom) or failed to secure convictions and/or confiscations (Belgium, Cyprus, Lithuania and the Republic of Moldova). It notes with satisfaction that in five States these investigations resulted in convictions, settlements and/or confiscations of the proceeds of the crime (France, Latvia, Netherlands, Switzerland, the United States of America). It regrets however that in several States the proceedings have not led to any conclusions or convictions so far. Referring to its Resolution 2218 (2018) "Fighting organised crime by facilitating the confiscation of illegal assets", the Assembly strongly reiterates its support for the confiscation of illegal assets as an effective tool in the fight against organised crime, including by reducing the authorities' burden of proof as to the criminal origin of unexplained wealth.

5. In Switzerland, in response to a complaint lodged by Hermitage Capital Management, the prosecuting authorities found a link between the funds embezzled from the Russian Treasury and part of the assets held in Swiss banking accounts. In 2021, they decided to confiscate a quarter of the funds frozen during the investigation, applying the so-called "proportional confiscation" method, on the grounds that the embezzled assets were mixed with assets of lawful or undetermined origin. These prosecuting authorities further re-examined Hermitage Capital Management's status as a private claimant and decided to revoke it. The decision became final in January 2025 when Hermitage Capital Management's appeal was rejected by the Swiss Federal Supreme Court.

6. The Assembly regrets that the Swiss money laundering investigation, notwithstanding the prompt seizure of approximately US$18 million in alleged proceeds of the crime exposed by Mr Magnitsky, has been overshadowed by serious allegations that Swiss officials involved in the investigation accepted undue advantages from high-ranking Russian officials and oligarchs. The Office of the Attorney General of Switzerland opened criminal proceedings against a member of the Swiss investigative team, charging him with abuse of authority, breach of official secrecy, and accepting a bribe. He was ultimately convicted by a court, although the Office of the Attorney General of Switzerland downgraded the charge to accepting undue advantages. The authorities determined that this investigator's conduct had no impact on the investigation itself or on its findings.

2. Draft resolution adopted unanimously by the committee on 27 January 2026.

7. The assets originally seized were located in Swiss accounts belonging to Dmitry Klyuev, Denis Katsyv and Vladlen Stepanov – three Russian citizens identified in multiple jurisdictions, including in the United States of America, as persons directly involved in the large-scale fraud denounced by Sergei Magnitsky and/or the laundering of the proceeds of that fraud. Their names appear on the "Magnitsky sanctions" lists in several Council of Europe member and observer States.

8. The Assembly takes note that, to date, Switzerland has not enacted its own "Magnitsky legislation" and that it regards confiscation predominantly as a criminal measure, which in most cases requires a court conviction. This contrasts with several other jurisdictions, including the United States, the United Kingdom and numerous European Union member States, where confiscation may be ordered through non-conviction-based proceedings. Swiss law permits non-conviction-based confiscation primarily in relation to illicit assets of foreign politically exposed persons, and on the basis of presumptions regarding assets linked to criminal organisations.

9. Notwithstanding the well-documented nature of the fraud in the Russian Federation, including a detailed investigation by the United States Department of Justice implicating Messrs Klyuev, Katsyv, and Stepanov, the Swiss prosecuting authorities, having regard to the position of the General Prosecutor's Office of the Russian Federation, concluded that it was not possible to consider the money laundering to be the work of a criminal organisation. This conclusion precluded the ordering of confiscation of the seized assets through non-conviction-based proceedings. By contrast, the authorities in the United States and in France determined that the US$230 million fraud and subsequent laundering was conducted by a criminal organisation involving Russian Government officials.

10. The Assembly observes that, according to the 2021 Swiss report on the national assessment of the risks of money laundering and terrorist financing published by the Federal Department of Finance, the main risk to which Switzerland is exposed is that of being used as a location for the laundering of assets obtained from financial crimes committed abroad. This risk is explained by the strong international focus of the Swiss financial centre and, in particular, its dominant position in cross-border asset management. The Assembly therefore considers that the utmost caution is required when dealing with attempts by suspected foreign criminals to misuse the Swiss financial system in order to launder the proceeds of crimes committed abroad. Due to the described exposure of Switzerland, the Assembly appreciates its attachment to the standards of the Financial Action Task Force (FATF).

11. In this context, the Assembly welcomes the judgment of the Swiss Federal Supreme Court of 5 December 2025, declaring the so-called "proportional confiscation" method unlawful.

12. Nevertheless, considering the high-profile nature of the Swiss investigation, the serious allegations of misconduct against former Swiss investigators due to their close links with high-ranking Russian officials, which have been duly examined by the competent Swiss judicial authorities (including within the framework of recusal requests), the prominent global status of the Swiss financial centre, and the decision to release the assets belonging to Russian citizens appearing on the "Magnitsky sanctions" lists in several Council of Europe member and observer States, the Assembly regrets that the Swiss authorities were not able to prove the allegations and confiscate all the seized assets.

13. The Assembly finds it regrettable that at a time when the Russian Federation is attempting to assert its dominance in its illegal war of aggression against Ukraine, including by increasing attacks against the Ukrainian civilian population, the money originally seized in Switzerland will return to the disposal of three Russian citizens with established links to the Russian State apparatus.

14. Referring to its Resolution 2218 (2018), the Assembly reiterates that the confiscation of illegal assets is often impeded by an unreasonably heavy burden of proof placed upon the competent national authorities. Consequently, the Assembly invites Switzerland and other Council of Europe member and observer States to:

14.1. review their legislation and, where applicable, to introduce or expand the use of non-conviction-based confiscation, in particular by reversing the burden of proof as to the origin of unexplained wealth, while establishing appropriate safeguards;

14.2. review the application of the "proportional confiscation" method, and consider replacing it with more dissuasive alternatives to punish perpetrators of money laundering.

15. The Assembly further calls on all member and observer States who have not yet done so to consider, in line with Resolution 2252 (2019) "Sergei Magnitsky and beyond – fighting impunity by targeted sanctions", enacting legislation or other legal instruments enabling the executive, under the general supervision of

parliament, to impose targeted sanctions, such as visa bans and asset freezes, against individuals reasonably believed to be personally responsible for or benefitting from serious human rights violations for which they enjoy impunity for political reasons or due to corrupt practices.

16. The Assembly further calls on the European Union to:

16.1. apply its EU Global Human Rights Sanctions Regime (EU Magnitsky Act) to individuals involved in the ill-treatment and death of Sergei Magnitsky;

16.2. expand the EU Magnitsky Act to enable the sanctioning of legal and natural persons, responsible for, or intentionally participating in, acts of significant corruption, including the misappropriation of private or public assets for personal gain, corruption related to expropriation, government contracts or the extraction of natural resources, bribery, or facilitating or transferring the proceeds of corruption to foreign States.

17. Finally, the Assembly calls on the FATF and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) to consider issuing a recommendation requiring States to introduce the reversal of the burden of proof in relation to unexplained wealth.

B. Explanatory memorandum by Ms Lesia Vasylenko, rapporteur[3]

1. Introduction

1. The present report is based on a motion for a resolution dated 23 April 2024 that refers to Resolution 1966 (2014), in which the Parliamentary Assembly condemned the killing of Sergei Magnitsky in a Russian prison and the impunity of the perpetrators of this crime.[4] It called for anti-money laundering investigations, including in Switzerland, to bring to justice those who benefited from the crime Mr Magnitsky had denounced. It further stated that while the proceedings in Switzerland were underway following the freezing of the proceeds of the crime (roughly US$18 million), the media revealed that senior representatives of the Swiss Federal Prosecutor's Office (OAG) had maintained unusually close relations with their Russian counterparts. One of them, Vinzenz Schnell, an expert on Russia assigned to the OAG, went on hunting and fishing trips with Russian officials paid for by Russian businessmen. He was dismissed from the Federal Police Office and convicted by a Swiss court for accepting an undue advantage in 2018. Nevertheless, the results of his investigation were accepted and, on 27 July 2021, the Swiss authorities decided to unfreeze 75% of the seized money to the Russian presumed criminals without indicting anyone.

2. The motion pointed out that according to the decision of the OAG, several individuals currently sanctioned in Canada, Australia, the United Kingdom, Latvia, Estonia, and the United States will receive part of the proceeds of the crime denounced by Mr Magnitsky. It stated that the Assembly should investigate claims of undue advantages granted to suspected Russian nationals in Switzerland, prepare a report, and adopt a resolution based on its conclusions.[5]

3. The committee appointed me as rapporteur at its meeting on 2 October 2024. In the context of the preparation of this report, in March 2025, the Committee on Legal Affairs and Human Rights held a hearing with the participation of Sir William Browder, CEO Hermitage Capital Management, Head of the Global Magnitsky Justice Campaign, and Professor Mark Pieth, founder of the Basel Institute on Governance, former member of the Financial Action Task Force (FATF) representing Switzerland (1989-1993). During the meeting held in Yerevan, in December 2024, the committee also held an exchange of views with Mr Andreas Gross, a former member of the Assembly (Switzerland, SOC) and rapporteur on “Refusing impunity for the killers of Sergei Magnitsky”.[6]

4. I also conducted a fact-finding visit to Bern on 6 March 2025. I had the opportunity to meet with representatives of the Federal Department of Foreign Affairs and the Interdepartmental Coordinating Group on Combating Money Laundering and Terrorist Financing. I was also able to meet Mr Alfred Heer (Switzerland, ALDE), Ms Marianne Binder-Keller (Switzerland, EPP/CD) and Mr Damien Cottier (Switzerland, ALDE), respectively the chairperson, vice-chairperson and member of the delegation of Switzerland to the Assembly. I regret that the Attorney General of the Swiss Confederation refused to meet with me, due to the principle of separation of powers. I am grateful to the Swiss delegation to the Assembly and its secretariat for the excellent organisation of my visit.

5. To obtain a complete picture of the case, on 27 February 2025, I sent a letter to the Swiss delegation with questions addressed to the Swiss authorities and inviting them to submit comments to my introductory memorandum. I received a reply on 15 April 2025, the content of which is summarised further below and, where applicable, reflected in the text of this explanatory memorandum.

6. In this report, I will summarise Sergei Magnitsky’s story, the large-scale fraud he exposed, the flow of money fraudulently obtained by Russian criminals, and the course of the Swiss investigation into the money laundering operation. I will also refer to the outcome of the investigations conducted in other States, where these illicit assets were reported to have been located. Finally, I will discuss my conclusions and recommendations, hoping that they will help to strengthen anti-money laundering measures, and make them more adapted to contemporary challenges.

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3. The explanatory memorandum is drawn up under the responsibility of the rapporteur.
4. Resolution 1966 (2014), “Refusing impunity for the killers of Sergei Magnitsky”, and Doc. 13356.
5. Doc. 15981, “Proceeds of the crime denounced by Sergei Magnitsky found in Switzerland must not be returned to the presumed perpetrators”.
6. Doc. 13356, op. cit.

2. Mr Magnitsky's discovery of a large-scale fraud, his subsequent arbitrary detention and death

7. In 2008, Sergei Leonidovich Magnitsky, a tax lawyer working for a Moscow-based law firm (Firestone Duncan), provided legal services to Hermitage Capital Management. He exposed a large-scale tax reimbursement fraud, implicating numerous Russian public officials. He discovered that officials from the Russian Ministry of the Interior, who had previously carried out searches of the offices of Hermitage Capital Management (adviser to the Hermitage Fund) and Firestone Duncan, had removed the original incorporation documents of three Hermitage Fund-owned holding companies: Rilend, Parfenion, and Makhaon. These holding companies previously held Russian public stocks, that the Fund sold in 2006 at a profit of close to 30 billion roubles (approximately US$ 1 billion) and paid over 5.4 billion roubles (approximately US $230 million) of capital gain tax. These companies were subsequently illegally re-registered in the names of known criminals. Fake lawsuits were brought against those companies – with the same lawyers representing plaintiffs and defendants. Russian courts swiftly granted these lawsuits, creating artificial financial liabilities adding up to, again, 30 billion roubles. Using these judgments, the criminals falsely claimed that the holding companies' profits for the previous year had been effectively wiped out by the sham court judgements. On this basis, they filed for a refund of the taxes paid on those profits by the rightful owners of the companies. Even though some of the judgments granting these damages had not yet become final and some were already under (ultimately successful) appeal, the refunds, the largest in Russian history, were approved within one day of the application by the two tax offices in Moscow (Tax Office No. 25 headed by Elena Khimina and Tax Office No. 28, headed by Olga Stepanova). Two days later, US$230 million (approximately 5.4 billion roubles) in tax refunds were transferred to two Russian banks: Intercommerz and Universal Savings Bank, the latter owned by Dmitry Klyuev, the alleged mastermind of the fraud, as determined by the US Department of Justice (DOJ).[7] As a result, US$230 millions were fraudulently obtained from the Russian Treasury and disbursed to the members of a criminal organisation.

8. Apart from the officials of the Russian Ministry of the Interior, the criminal organisation that perpetrated this tax fraud also included two officials from the Federal Security Service (FSB), two heads of Moscow tax offices, six judges, previously convicted banker Dmitry Klyuev, several lawyers that orchestrated and obtained the sham court judgments and persons previously convicted of manslaughter and burglary.[8]

9. Hermitage Capital Management, advised by Sergei Magnitsky, formally complained to the authorities in early December 2007, providing detailed evidence of the fraud and the roles of individual officers in it. However, the criminal case based on Hermitage's complaint was only opened two months later, on 5 February 2008, allowing the stolen money to leave Russia. Instead of holding perpetrators to account, the Russian Ministry of the Interior re-opened an old investigation against Hermitage, which had been closed in 2005 after the authorities concluded that no criminal activity had occurred. In June and October 2008, Sergei Magnitsky testified in a case opened on Hermitage's request, identifying Russian Interior Ministry officials involved in the crime. In retaliation, an investigative team was established in November 2008 to put forward false accusations against Hermitage. This team included police officers whom Mr Magnitsky had named as being involved in the US$230 million tax fraud. A few days later, the same investigative team decided to arrest Mr Magnitsky. On 24 November 2008, Mr Magnitsky was arrested on charges of collusion to commit tax fraud and placed in pre-trial detention. He maintained his innocence and repeatedly accused the investigators of trying to extract a false confession in retaliation for his whistleblowing. Mr Magnitsky's health dramatically deteriorated, due to the horrific conditions of his detention documented in his hand-written diary. Despite being diagnosed with acute pancreatitis, he was denied adequate medical care. On 16 November 2009, after being handcuffed and beaten by prison guards, he died in a cell of the medical unit of Matrosskaya Tishina prison.

10. Following Mr Magnitsky's killing, Russian authorities launched an investigation into his death but failed to hold anyone accountable. Vladimir Putin publicly exonerated all the officials involved and claimed that Magnitsky had not been tortured and had died of natural causes.[9] Several officials who were later subjected to targeted sanctions for their involvement in the killing of Mr Magnitsky and the fraud that he uncovered were given State awards and promoted.[10]

11. In its judgment of 27 August 2019, in the case of *Magnitskiy and Others v. Russia*, the European Court of Human Rights held that Russia had violated several Articles of the European Convention on Human Rights (ETS No. 5) with regard to Mr Magnitsky's detention, prosecution and death. In particular, the Court held that the Russian authorities had failed to protect Mr Magnitsky's right to life and ensure an effective investigation

7. https://home.treasury.gov/news/press-releases/jl2408.
8. www.occrp.org/en/project/the-proxy-platform/death-of-a-lawyer.
9. http://en.special.kremlin.ru/events/president/transcripts/17173.
10. https://web.archive.org/web/20120711061610/http://www.mvd.ru/news/show_77869/.

into the circumstances of his death (Article 2). It further held that Mr Magnitsky had been subjected to inhuman and degrading treatment by the guards in the remand centre (Article 3). His posthumous conviction had breached his right to a fair trial and the presumption of innocence (Article 6 §§ 1 and 2).[11] Although the Court concluded that Mr Magnitsky's arrest was not arbitrary (thus rejecting the complaint under Article 5 § 1(c)), it held that the authorities had inverted the presumption in favour of release, holding that he should continue to be detained in the absence of new information warranting his release, in violation of Article 5 § 3.

12. It is important to emphasise that instead of prosecuting those responsible for the fraud, the Russian authorities opened a criminal case against Mr Magnitsky himself. In 2013, three years after his death, Sergei Magnitsky was put on posthumous trial, the first in the Russian history. None of the high-ranking officials involved in the fraud (and, in fact, theft from the Russian Treasury) has ever been tried, which ultimately led to international responses such as the enactment of "Magnitsky laws", facilitating targeted sanctions against human rights violators and corrupt officials enjoying impunity in their own countries. Sergei Magnitsky was convinced that it was his duty as a Russian patriot to denounce the crime, the victims of which he believed were ordinary Russian people.

3. The money trail and the ensuing proceedings in Switzerland

13. A consortium of investigative journalists managed to establish that the stolen funds were laundered through a complex series of transfers involving shell corporations and investments in various assets.[12] The then Assembly's rapporteur Andreas Gross[13] received the complete documentation concerning a specific "money trail" leading from the Russian Treasury via the stolen Hermitage companies, several Russian companies and banks, two Moldovan companies and banks, a Latvian account, two British Virgin Island companies' accounts at Credit Suisse in Zurich and then on to the Credit Suisse account of another company owned by Vladlen Stepanov, then husband of Olga Stepanova, head of Moscow Tax Office No. 28, which authorised a major part of the tax refund (see paragraph 8 above).

14. On 3 March 2011, the Swiss OAG opened an investigation against unknown persons on suspicion of money laundering in response to a complaint made on 28 January 2011 by Hermitage Capital Management, which obtained the status of a private claimant in the investigation. The complaint alleged that Stepanovs' family had laundered money through the Swiss bank account of Faradine Systems and purchased luxury properties in Kempinsky Palm Jumeirah, UAE.

15. In 2013, Swiss authorities identified accounts controlled by Dmitry Klyuev and froze US$37 607 on these accounts. Meanwhile, investigative journalists reported that as much as US$14.5 million had been transferred to Klyuev's Swiss accounts, funds that could potentially be traced back to the US$230 million fraud uncovered by Sergei Magnitsky.[14] Furthermore, the records obtained by investigative journalists show that the funds from Klyuev's accounts were also used to buy luxury properties in Kempinsky Palm Jumeirah, UAE, one of them next door to Vladlen Stepanov's property.

16. Further on, another "money trail" has been reconstituted leading from the fraudulent reimbursement of the taxes via many other waystations, including in the Republic of Moldova, Estonia and Lithuania, to a UBS account in Zurich belonging to Prevezon Holdings, Ltd.[15] – a Cyprus-based real estate corporation owned by Denis Katsyv, the son of the former Minister of Transport and Vice-Governor of the Moscow Region, Piotr Katsyv.

17. In 2013, the DOJ determined that a portion of the funds stolen from the Russian Treasury passed through several shell companies into Swiss accounts of Prevezon Holdings, Ltd., which further laundered these fraud proceeds into real estate holdings, including investment in multiple units of high-end commercial space and luxury apartments in Manhattan. In consequence, the US authorities opened a money laundering civil forfeiture case,[16] which Prevezon settled in 2017 by paying almost US$6 million (triple the value of the proceeds laundered).[17]

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11. *Magnitskiy and Others v. Russia*, nos. 32631/09, 53799/12, 27 August 2019.
12. www.occrp.org/en/project/the-proxy-platform/following-the-magnitsky-money.
13. Doc. 13356, op. cit.
14. www.swissinfo.ch/eng/foreign-affairs/magnitsky-case-when-russian-millions-go-uninvestigated-in-switzerland/81235732.
15. www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/U.S.%20v%20Prevezon%20et%20al.%20Complaint.pdf.
16. www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-civil-forfeiture-complaint-against-real-estate.

18. In March 2024, the Dutch Public Prosecution Service imposed a penalty order of more than €3 million on Prevezon Holdings, for laundering money associated with another portion of funds that passed through the Swiss accounts belonging to Prevezon.[18]

19. As a result of its investigation, the Swiss OAG ordered the seizure of US$18.1 million across several Swiss bank accounts controlled by three Russian citizens: Vladlen Stepanov, Dmitry Klyuev, and Denis Katsyv. These individuals were believed to have financially benefitted from the fraud, with the funds laundered through Swiss financial institutions. The funds were distributed as follows:

– US$9.8 million at Credit Suisse account belonging to Vladlen Stepanov, then husband of Olga Stepanova, head of Moscow Tax Office No. 28, which authorised a major part of the fraudulent tax refund,

– US$8.3 million at UBS Zurich accounts belonging to Denis Katsyv,

– US$37 607 at a UBS account belonging to Dmitry Klyuev.

20. Messrs Stepanov's and Klyuev's names appear on the international sanctions lists of Australia,[19] Canada,[20] Estonia,[21] Latvia,[22] Lithuania,[23] the United Kingdom,[24] and the United States of America,[25] for their involvement in the US$230 million fraud uncovered by Sergei Magnitsky. Given the scope of the EU Magnitsky Act, which only applies to persons responsible for or involved in genocide, crimes against humanity and other serious human rights violations or abuses, these individuals are not currently sanctioned by the European Union.

21. On 21 July 2021, the OAG decided to close the investigation in Switzerland. Despite finding “a link between the funds embezzled from the Russian treasury and assets credited to banking relationships in Switzerland”, the OAG decided that US$4.6 million of funds frozen during the investigation should be confiscated while the seizure of the remaining US$13.5 million should be lifted. Its investigation did not reveal any evidence justifying bringing charges against anyone in Switzerland.[26]

22. The OAG justified its decision by finding that:

– it could not see the involvement of a “criminal organisation” in the fraud;

– there is no evidence of Dmitry Klyuev’s involvement in the US$230 million fraud;

– the tax authorities who approved the illegal tax refund (Olga Stepanova and Elena Khimina) were deceived and therefore were not involved in the fraud;

– it is not possible to identify an author of laundering of funds embezzled from the Russian Treasury in Switzerland.

23. Furthermore, the OAG recognised that serious money laundering took place in Switzerland, stating: “The complexity of the acts of obstruction, the volume and sophistication of the operations, the number of participants (natural and legal persons), the development of complex patterns in many countries as well as the amount of laundered securities create the generic aggravating circumstance of the money laundering within the meaning of art 305bis ch 2 CP".[27]

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17. www.justice.gov/usao-sdny/pr/acting-manhattan-us-attorney-announces-59-million-settlement-civil-money-laundering-and.
18. www.om.nl/actueel/nieuws/2024/03/11/strafbeschikking-van-ruim-3-miljoen-euro-voor-witwassen-door-cypriotische-vennootschap.
19. www.dfat.gov.au/international-relations/security/sanctions/consolidated-list.
20. www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/consolidated-consolide.aspx?lang=eng.
21. https://news.err.ee/692843/estonia-imposes-entry-ban-on-individuals-on-magnitsky-list.
22. https://likumi.lv/ta/id/297012-par-aicinajumu-noteikt-sankcijas-sergeja-magnitska-lieta-iesaistitajam-personam.
23. https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/d5a59510d38111e782d4fd2c44cc67af?jfwid=-15zxvv6x70.
24. https://ofsistorage.blob.core.windows.net/publishlive/2022format/ConList.html.
25. https://sanctionssearch.ofac.treas.gov/.
26. Case SV.11.0049-KOD. Order for classification, confiscation of assets and withdrawal of complainant status as of July 21, 2021. p.2.4, 4.3.10; Article 319, §1, a) Criminal Procedure Code; Laundering of funds misappropriated from the Russian Treasury: closure of proceedings and partial forfeiture of assets (admin.ch).
27. Case SV.11.0049-KOD, op. cit.

24. The findings of the OAG appear to contradict those of the DOJ, which concluded that:

– "the Russian Tax Fraud was perpetrated by members of a Russian criminal organization that included Russian government officials and defrauded the Russian treasury of approximately $230 million".

– "DMITRY KLYUEV, a convicted fraudster, the owner of the Russian bank Universal Savings Bank ("USB"), and on information and belief the mastermind of the Organization".

– "…the head of Moscow Tax Office No. 25 was YELENA KHIMINA, who on information and belief is a member of the Organization, and the head of Moscow Tax Office No. 28 was STEPANOVA, who had travelled to Larnaca in May of 2007 and on information and belief met with KLYUEV to plan the $230 Million Fraud Scheme…on December 24, 2007 – the same day that most of the refund applications were filed and one business day after the others were filed – KHIMINA and STEPANOVA, as heads of Moscow Tax Offices 25 and 28, approved the U.S. $230 million in refunds".

– The perpetrators of the fraud then engaged in a complicated series of transactions to launder the fraud proceeds and distribute them amongst the members and associates of their criminal organization.

– These transfers often involved the use of shell companies, nominees, and commingling of the proceeds of the fraud scheme with other funds in order to launder the fraud proceeds.[28]

25. Despite confirming that the Swiss accounts were indeed used to launder proceeds of crime, the OAG decided to confiscate only US$4.6 million and lift the seizure over the remaining US$13.5 million:[29]

	Amount frozen	**Amount to be confiscated**	**Amount to be returned**	**% confiscated**	**% returned**
Accounts connected to Vladlen Stepanov	US$9 801 226	US$4 522 900	US$5 278 326	46%	54%
Accounts connected to Denis Katsyv	US$8 265 300	US$78 216	US$8 187 084	1%	99%
Accounts connected to Dmitry Klyuev	US$37 607	US$0	US$37 607	0%	100%

26. To justify the partial confiscation, the OAG decided to apply a "proportional confiscation" method, which drastically reduced the amount of money the Swiss authorities considered illicit and subject to forfeiture.

27. The OAG also re-examined Hermitage Capital Management's status as a private claimant and decided to revoke it, stating that "despite extensive enquiries, it had not been possible to demonstrate that the funds under investigation in Switzerland originated from an offence committed to Hermitage's detriment."[30]

28. Ruling on an appeal by Hermitage, the Lower Appeals Chamber of the Swiss Federal Criminal Court confirmed the withdrawal of the company's status as private claimant in a decision issued on 23 November 2022. In December 2022, Hermitage filed a formal appeal against that decision with the Swiss Federal Supreme Court,[31] which finally rejected it on 21 January 2025.[32]

29. On 5 December 2025, the Swiss Federal Supreme Court issued a judgment in the case initiated by an appeal submitted by a company linked to Mr Katsyv. The case was then sent back to a lower court for re-examination. The Federal Supreme Court ruled that applying the "proportional confiscation" to mixed funds (where illicit and licit funds are intertwined), presents a "potentially radical character" because it risks "contaminating the legal economy". It further held that this method would breach the constitutional protection of property rights. In consequence, the Swiss Federal Supreme Court declared the "proportional confiscation" method unlawful and decided that a different method should be applied, known as the "sedimentation" or "floor" theory (*Bodensatz-/Sockeltheorie*).[33]

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28. www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/U.S.%20v%20Prevezon%20et%20al.%20Complaint.pdf.
29. Laundering of funds misappropriated from the Russian Treasury: closure of proceedings and partial forfeiture of assets (admin.ch).
30. Id.
31. www.swissinfo.ch/eng/business/magnitsky-affair-switzerland-to-return-suspect-millions-to-russia/48272602.
32. 7B_60/2022, 21 January 2025 – Tribunal fédéral; www.bger.ch/files/live/sites/bger/files/pdf/en/7b_0060_2022_2025_01_30_T_e_09_44_42.pdf.
33. http://relevancy.bger.ch/php/aza/http/index.php?highlight_docid=aza%3A%2F%2F05-12-2025-7B_65-2023&lang=de&type=show_document.

30. This method assumes that illicit funds “sink” to the bottom of the account (hence the "sediment"). As long as the account balance remains above the amount of the illicit proceeds, any withdrawals are presumed to come from the "clean" funds floating on top. The criminal proceeds are only touched (and thus laundered) if the balance falls into that bottom layer. If the authorities can prove that the account holder intentionally used the illicit proceeds (even if the balance didn't hit the "floor"), for example, by resorting to typical money laundering techniques, those specific funds will be considered contaminated, regardless of the account balance.

4. Controversies surrounding the Swiss investigation

4.1. Allegations of misconduct against the investigators about close links with Russian officials

31. As a preliminary remark, I should note that the Swiss delegation to the Assembly informed me that the mentioning of full names of Swiss civil servants raises issues from the perspective of data protection. While I understand the concern, I note that the names of the persons mentioned herein were already published in the Swiss and international media,[34] and therefore I do not consider it necessary to anonymise them.

32. According to the Swiss court records, in 2013, Vinzenz Schnell – a Swiss federal police officer seconded to the OAG to assist with the Swiss side of the Magnitsky case – joined the investigating team.[35] In 2014, Mr Schnell went on a hunt with a Russian deputy Prosecutor General, Saak Karapetyan. According to official Swiss court records, they stayed at a lodge in the Yaroslavl region, and a Russian oligarch covered the expenses. Later that year, Mr Schnell, his immediate supervisor, Patrick Lamon, and the head of the OAG, Prosecutor General Michael Lauber, attended a prosecutorial conference in Irkutsk organised by the Office of the Russian Prosecutor General. After the conference, the Russian hosts invited the Swiss prosecutors to a boat trip on Lake Baikal.[36] In September 2015, Mr Lamon and Mr Schnell travelled to Moscow on a Russian State-owned jet at the invitation of the Russian Prosecutor General. Mr Schnell stayed on for another hunt with Mr Karapetyan.

33. Although Mr Karapetyan died in a helicopter crash in 2018, his appearance in the context of the Magnitsky case merits closer attention. According to *the Economist*, Mr Karapetyan was personally involved in a refusal to provide legal assistance to the United States in the Prevezon case (see paragraph 18 above) and insisted that the company and its owner were innocent. He accused Sir William Browder of being responsible for the fraud. An investigation by the DOJ determined that the letter had been drafted with help from the Russian lawyer advising Prevezon, Natalia Veselnitskaya.[37] On 8 January 2019, the DOJ indicted Natalia Veselnitskaya on charges of obstruction of justice for hiding her role in the mutual legal assistance response signed by Mr Karapetyan.[38] She became publicly known for meeting with senior figures from Donald Trump’s presidential campaign (Donald Trump Jr., Paul Manafort and Jared Kushner) at Trump Tower in June 2016, to lobby for the repeal of the Magnitsky Act.[39] According to *the Wall Street Journal*, the Trump campaign was made to believe that Ms Veselnitskaya had “dirt” on then-candidate Trump’s Democratic opponent, Hillary Clinton.[40]

34. In August 2016, Mr Schnell went on yet another hunting trip with Mr Karapetyan. This time, they took an 8-hour flight from Moscow, followed by a helicopter trip to the Kamchatka Peninsula for hunting bears and fishing, and stayed at a lodge owned by another Russian oligarch. According to Mr Schnell’s testimony, the two men discussed the Magnitsky case.[41] Upon Mr Schnell’s return to Switzerland, he summoned Andreas

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34. See, for example, www.swissinfo.ch/eng/politics/magnitsky-affair-sanctions-sought-against-ex-swiss-attorney-general/48698566.
35. www.bger.ch/ext/eurospider/live/de/php/aza/http/index.php?lang=de&type=highlight_simple_query&page=1&from_date=&to_date=&sort=relevance&insertion_date=&top_subcollection_aza=all&query_words=8C_194%2F2018&rank=1&azaclir=aza&highlight_docid=aza%3A%2F%2F05-07-2018-8C_194-2018&number_of_ranks=3.
36. www.aargauerzeitung.ch/schweiz/bundesanwalt-in-ferienstimmung-auf-dem-baikalsee-lauber-geht-vor-den-russen-in-die-knie-ld.1367849.
37. Par. 20 www.justice.gov/usao-sdny/press-release/file/1123676/dl.
38. www.justice.gov/usao-sdny/pr/russian-attorney-natalya-veselnitskaya-charged-obstruction-justice-connection-civil.
39. www.economist.com/finance-and-economics/2021/01/23/a-swiss-money-laundering-probe-raises-disturbing-questions.
40. www.wsj.com/articles/russian-lawyer-who-trump-jr-met-says-she-was-in-contact-with-top-russian-prosecutor-1500063809.
41. www.economist.com/finance-and-economics/2021/01/23/a-swiss-money-laundering-probe-raises-disturbing-questions.

Gross, the Assembly's rapporteur for "Refusing impunity for the killers of Sergei Magnitsky",[42] for a lengthy interrogation, in an attempt to undermine the credibility of his report (as Mr Schnell admitted before a Swiss court).[43] I should recall that members of the Assembly enjoy an absolute, permanent and perpetual in nature immunity from interrogation in respect of words spoken in the exercise of their functions, pursuant to Article 14 of the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 2).[44]

35. Despite being refused permission from his supervisor, Mr Schnell travelled to Russia on 27-29 December 2016 using his diplomatic passport.[45] As Mr Schnell tried to justify later, he thought that he could obtain crucial documents related to another money laundering case, of Yelena Skrynnik, former Russian Minister of Agriculture.[46] The Russian Prosecutor General's Office covered his accommodation costs. Instead of receiving the promised "crucial documents" desired by the Swiss authorities, Mr Schnell was taken to a meeting with Ms Veselnitskaya, the Russian lawyer of Denis Katsyv, one of the suspects in the Swiss money laundering case.[47] Meanwhile, the documents that were a pretext for Schnell's trip to Moscow were never provided by the Russian Prosecutor office.[48]

36. Upon his return, Mr Schnell's superiors at the Federal Police (FedPol) filed a criminal complaint against him, alleging that he had abused and usurped his authority, violated official secrecy and accepted a bribe.[49] Additionally, the FedPol terminated Mr Schnell's employment stating: "his disloyal behaviour, deliberate defiance of orders from his superior, and violation of the documentation requirement", as well as the fact, that "his off-duty behaviour impaired FedPol's proper performance of its duties and damaged the public's trust in the administration and the employer's trust in him as an employee".[50]

37. On 11 January 2019, the Swiss Prosecutor General Michael Lauber personally approved a Penal Order exonerating Vinzenz Schnell from the three of the most severe accusations. These charges were replaced with a less severe accusation of multiple acceptance of undue advantages.[51]

38. According to the Swiss court records, Mr Lauber had known Mr Schnell for over 20 years and was responsible for Mr Schnell's secondment from FedPol to the OAG's investigation of the Magnitsky case. According to Mr Lauber's testimony, he had "known Vinzenz Schnell since the late 1990s when he [Mr Lauber] was the head of the Central Office for Organised Crime at FedPol, and Schnell had been recruited during the establishment of this office." Mr Lauber further confirmed that Mr Schnell had worked with the OAG on matters involving Russia in his capacity as a FedPol investigator and frequently accompanied Mr Lauber on trips, advised on intercultural matters, translated for him, and was often consulted in individual cases due to his knowledge and experience.[52]

39. According to the court documents and testimonies, Vinzenz Schnell was a "major expert on Russian cases," an interpreter, and a liaison with the Russian Prosecutor's Office, and, therefore, held significant influence in his official capacity. Mr Schnell worked directly with Mr Lamon, the Swiss Federal Prosecutor on the Magnitsky case, as well as with Mr Lauber. His position allowed him to shape the narrative presented to his superiors, potentially reflecting the interests of the Russian Prosecutor's Office. It appears that the OAG did not examine the possible influence of Mr Schnell on the outcome of the investigation into the Magnitsky case. Several requests to have Mr Lamon excluded from the investigation were examined and rejected by Swiss courts.

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42. Doc. 13356, op. cit.
43. https://novayagazeta.ru/articles/2020/05/19/85444-the-prosecutor-for-escort.
44. See also Resolution 2392 (2021) "Guidelines on the scope of the parliamentary immunities enjoyed by members of the Parliamentary Assembly".
45. https://bstger.weblaw.ch/pdf/20190604_SK_2019_25.pdf.
46. www.economist.com/finance-and-economics/2021/01/23/a-swiss-money-laundering-probe-raises-disturbing-questions.
47. https://novayagazeta.ru/articles/2020/05/19/85444-the-prosecutor-for-escort.
48. www.swissinfo.ch/fre/la-suisse-classe-une-enqu%C3%AAte-contre-une-ex-ministre-russe/43390342.
49. www.economist.com/finance-and-economics/2021/01/23/a-swiss-money-laundering-probe-raises-disturbing-questions;www.bger.ch/ext/eurospider/live/de/php/aza/http/index.php?lang=de&type=highlight_simple_query&page=1&from_date=&to_date=&sort=relevance&insertion_date=&top_subcollection_aza=all&query_words=%22Bundesamt+f%FCr+Polizei%22+%22Dominic+Nellen%22&rank=1&azaclir=aza&highlight_docid=aza%3A%2F%2F05-07-2018-8C_194-2018&number_of_ranks=367.
50. Ibid.
51. Penal Order / Partial Disposal Order Art. 352 ff. StPO / Art. 319 ff. stop as of 11 January 2019.
52. https://bstger.weblaw.ch/pdf/20190604_SK_2019_25.pdf.

40. Eventually, Mr Schnell was convicted of "accepting an undue advantage" (*Vorteilsannahme*) in relation to his bear-hunting trip in Kamchatka. Unlike in the case of bribery, to be convicted of accepting an undue advantage, the prosecution does not need to establish that an individual received a benefit in exchange for something (*quid pro quo*).[53] Despite his defence claiming he had acted in the interest of Swiss law enforcement, the evidence indicated that his relationships with Russian officials compromised the integrity of his investigatory work, particularly in the Magnitsky case and its implications for international co-operation in combating corruption.[54]

41. Mr Lauber's term as Swiss Prosecutor General spanned between 2012 and 2020. Under his supervision, the investigation into the money laundering case at issue languished for nearly a decade without any significant legal action being taken, despite the evidence submitted by Hermitage and international media. During this time, Mr Lauber's relationships with Russian officials became the subject of intense media scrutiny. Swiss press reported that Mr Lauber had attended lavish dinners, private hunting trips, and had flights paid for by Russian authorities. This raised serious concerns about his ability to impartially oversee investigations involving Russian figures and potentially compromised the integrity of legal processes.[55]

42. At the same time, other investigations into senior Russian figures in Mr Lauber's office were similarly stalled or dropped. One such case involved Yelena Skrynnik (see paragraph 35 above), accused of transferring around US$140 million into Swiss bank accounts.[56] Despite the substantial financial volume, the investigation was dropped due to a lack of evidence. Another case focused on Artyom Chaika, the son of Russia's Prosecutor General Yury Chaika and a close ally of Vladimir Putin, whom Alexei Navalny and his Anti-Corruption Foundation accused of laundering money in Switzerland.[57] The Swiss authorities refused to open an investigation over lack of evidence of criminal activity.[58]

43. In 2020, a Swiss parliamentary inquiry concluded that Mr Lauber had "seriously violated his official duties" and damaged the OAG's reputation. The inquiry was not related to his handling of the Magnitsky case but rather to his unofficial meetings with the FIFA President, Gianni Infantino, concerning a corruption probe. It led to the launch of formal impeachment proceedings against Mr Lauber in the Swiss Parliament.[59] Mr Lauber resigned before the vote on his impeachment could take place. The subsequently opened criminal proceedings concerning allegations against Mr Lauber, related to undisclosed meetings with Gianni Infantino, were discontinued in 2024.[60]

44. Finally, in March 2021, Patrick Lamon retired, leaving the Magnitsky case to his deputy, Prosecutor Diane Kohler, who soon (in July 2021) closed the investigation, citing insufficient evidence to charge anyone in Switzerland.[61]

45. According to a SwissInfo report, the OAG decided not to investigate nearly US$8 million transferred to Swiss accounts owned by Russian Senator Dmitry Saveliev in 2012-2013, connected to the same crime. Mr Saveliev was sanctioned in 2022 for supporting the Russian invasion of Ukraine. The OAG chose not to look into another US$2 million transferred from UBS accounts in Switzerland belonging to Dmitry Klyuev to accounts at Bordier & Cie, held by Russian businessman Igor Sagiryan. Although these funds may be linked to the same network involved in the Russian Treasury fraud exposed by Sergei Magnitsky, the OAG cited challenges in tracing the money as a reason for not pursuing the investigation further. This decision has led experts to question Switzerland's commitment to tackling money laundering, pointing to possible issues in the OAG's approach to handling major financial crime cases, particularly those involving Russian officials.[62]

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53. https://novayagazeta.ru/articles/2020/05/19/85444-the-prosecutor-for-escort.
54. The Magnitsky Case in Switzerland: Uncovering the Truth – SWI swissinfo.ch.
55. Ibid.
56. Swiss Authorities Freeze Accounts of Ex-Russian Minister of Agriculture | OCCRP.
57. Switzerland 'first choice for corrupt Russians' – SWI swissinfo.ch.
58. www.rbth.com/international/2016/03/28/swiss-refuse-to-launch-case-against-russian-prosecutor-generals-son_579763.
59. Swiss prosecutor's resignation strikes at the heart of country's legal system – SWI swissinfo.ch.
60. www.swissinfo.ch/eng/business/fifa-case-against-scandal-hit-attorney-general-to-close/48729470.
61. www.admin.ch/gov/en/start/documentation/media-releases.msg-id-84542.html.
62. www.swissinfo.ch/eng/foreign-affairs/magnitsky-case-when-russian-millions-go-uninvestigated-in-switzerland/81235732.

4.2. Forfeiture of laundered assets

46. On 21 July 2021 the OAG confirmed that it found a connection between US$230 million illegal tax rebate fraud in Russia and multiple Swiss accounts. However, the OAG decision to forfeit not all the frozen funds but only roughly US$4.6 million of the total of US$18.1 million and to lift the seizure of the remaining US $13.5 million, raises a significant concern.

47. The OAG's interpretation directly contradicts the conclusion reached by the DOJ. The DOJ identified the fraud as having been conducted by a Russian criminal organisation, involving corrupt officials and others, who laundered funds and retaliated against whistleblowers such as Sergei Magnitsky, who was killed after exposing the scheme.

48. Furthermore, the DOJ investigation revealed that the same criminal organisation was responsible for another US$107 million fraud, conducted in a strikingly similar manner to the $230 million fraud.[63]

49. The OAG's own findings revealed that Olga Stepanova had authorised the fraudulent tax rebates, with her then-husband receiving millions in his Swiss accounts. Evidence in the OAG's possession included flight manifests demonstrating collaboration among key players. For instance, these documents show Dmitry Klyuev travelling on a private jet to Larnaca with a policeman named by the DOJ as a member of the criminal organisation. Swiss police records further revealed joint flights of the supposedly divorced Olga Stepanova and Vladlen Stepanov, along with their joint Swiss visa applications. Similarly, Cyprus police records documented their shared flight to Larnaca shortly after Dmitry Klyuev arrived there in May 2007.

50. The OAG also cited various reasons why it could not prove that Dmitry Klyuev received illicit proceeds from the US$230 million fraud. It claimed that "the complexity of the diagrams and reliance on third-party sources made it impossible to trace the flows" to Mr Klyuev's accounts. However, in reality, Mr Klyuev's accounts were credited by the same senders and at the same time as those connected to Vladlen Stepanov. The OAG had already concluded that Mr Stepanov received a portion of the illicit funds from the fraud. Therefore, the OAG's argument that tracing Mr Klyuev's funds was more complex than tracing those of Mr Stepanov appears rather unconvincing, as both accounts received funds from identical sources.

4.3. The "proportional confiscation" method

51. In justifying its decision to apply the "proportional confiscation" method, the OAG stated as follows: "When assets resulting from a predicate offence of money laundering are mixed with assets of lawful origin or of undetermined origin, the problem of partial contamination arises." To avoid confiscating all mixed assets, the OAG employed a method of "proportionate confiscation" that seizes only the part of the assets derived from crime, based on the proportion of criminal to lawful funds, citing a 2013 Swiss court ruling as a precedent.[64]

52. The OAG correctly cited the FATF's definition of money laundering, which involves three stages:

a. Placement: Illicit funds are deposited into a bank account.

b. Layering: Funds are transferred between multiple accounts, often in shell or offshore companies, to obscure their criminal origins.

c. Integration: Laundered funds are used for legitimate purposes, such as personal accounts, real estate, or luxury goods.

53. However, the 2013 Swiss court decision that the OAG referred to applied proportional confiscation at the integration stage, with the ultimate recipient, where criminal funds mix with legitimate funds (for example, in the account of a car dealership which sold cars to money launderers as well as legitimate customers). In such cases, proportional confiscation prevents the seizure of all funds from entities conducting both legal and illegal activities.

54. In the case at hand, the OAG appears to have applied this proportional approach to the layering stage, where funds are merely transferred and disguised and not yet mixed with legitimate funds. For instance, the OAG calculated the proportion of illicit funds in relation to the total money in each shell company account and

63. www.docketalarm.com/cases/New_York_Southern_District_Court/1--13-cv-06326/United_States_of_America_v._Prevezon_Holdings_Ltd._et_al/381/.

64. Case SV.11.0049-KOD. op.cit. p.2.3, 4.1. Judgment of the Federal Criminal Court SK.2011.24 of 10 October 2013 at consider 7.11.1a, https://entscheide.weblaw.ch/cache.php?link=10.10.2013_SK.2011.24&q=&sel_lang=en.

classified only that proportion as illicit when it was transferred out. This approach effectively labelled only a fraction of the outgoing funds as illicit after each transfer through a shell company account, creating the illusion of “evaporation” of illicit funds.

55. In practice, money launderers transfer funds between shell companies in their entirety to conceal their origins. They do not lose a substantial portion at each stage due to the presence of other, legitimate, funds in the same accounts. By using proportional confiscation during layering, the OAG effectively tried to “reward” sophisticated money launderers. This approach would result in most laundered funds being “whitewashed” and legally usable, undermining efforts to combat financial crime.

56. I find it concerning that the OAG seems to have ignored some other indicators of money laundering in the flow of funds wired to Swiss recipients. These indicators included a lack of business justification, possibly fabricated payment reasons and shell company senders exhibiting potential signs of money laundering. The red flags included shell companies lacking real business activity or online presence, directors involved in thousands of companies with histories of money laundering and fraud, management of multiple shell companies from the same IP address, absence of typical business expenses (such as salaries, taxes, utilities, and office costs), and falsified or non-existent public financial records.

57. This approach sharply contrasts with prevailing money laundering enforcement practices, where all funds with clear signs of money laundering are typically confiscated unless proven clean. The Swiss law favours a strictly criminal approach, requiring the authorities (in most cases) to carry the burden of proving the illicit origin of assets.[65]

58. On 7 February 2023, the Federal Criminal Tribunal upheld the confiscation order (case no. BB.2021.198-199). It noted that while the OAG obtained evidence confirming Hermitage's allegations about some assets, it was impossible to reconstruct the documentary trail of the remaining funds. The Court further determined that the assets originating from the fraud committed against the Russian Treasury were mixed, at various stages of the money laundering process, with funds of legal or at least undetermined origin. The Federal Criminal Tribunal then endorsed the proportional confiscation method, asserting that it offered a “balanced solution” between the interests of the parties involved.[66]

59. Adopting the proportional confiscation method would have possibly serious implications for Switzerland's legal practice and its role in the international fight against financial crime. It would risk setting a dangerous precedent that could be applied in future money laundering cases, allowing criminals to keep the vast majority of their funds by moving money through layers of multiple accounts and, in effect, granting them impunity.[67]

60. Hermitage argued that this method effectively incentivises criminals to use Swiss banks for laundering money, as it allows them to retain the majority of their illicit funds.[68] Under this approach, launderers can pass their money through multiple layers of accounts and transactions, with the proportion of dirty money shrinking at each stage.[69] By the end of the process, they can effectively “clean” a vast sum of money by sacrificing only a small portion to confiscation. For example, as in the Magnitsky case, only US$4.6 million out of US $18.1 million (25%) was seized, while the rest (US$13.5 million) was released.

61. Mark Pieth, a former representative of Switzerland at the FATF, has been particularly vocal in opposing the “proportional confiscation” method, arguing that it could transform Switzerland into a "paradise for money laundering".[70] Mr Pieth and other experts contend that the method fundamentally undermines the global fight against financial crime. It allowed criminals to exploit the system by paying a small “fee” to legitimise their illicit funds.[71]

62. The FATF explicitly recommends that countries consider adopting measures requiring an offender to demonstrate the lawful origin of the property suspected of being liable to confiscation.[72] This essentially introduces a reversal of the burden of proof, significantly hampering money laundering and allowing the

65. www.news.admin.ch/de/nsb?id=103321.
66. Tribunal pénal fédéral, Numéros de dossier: BB.2021.198-199, Décision du 7 février 2023.
67. See related cases: BB.2021.193, BB.2021.194, BB.2021.195, BB.2021.196, BB.2021.197 (weblaw.ch), BB.2021.198, BB.2021.199 (weblaw.ch).
68. https://medium.com/@vadim.kleyner/switzerland-a-new-heaven-for-money-launderers-fba55cf1b5a9.
69. www.swissinfo.ch/eng/business/magnitsky-affair-switzerland-to-return-suspect-millions-to-russia/48272602.
70. www.swissinfo.ch/eng/foreign-affairs/magnitsky-case-when-russian-millions-go-uninvestigated-in-switzerland/81235732.
71. Ibid.

authorities to adopt dissuasive measures. According to the FATF's Best Practices Paper related to Recommendation 4, the accused party should be required to prove on a balance of probabilities that a particular asset, transfer, or expenditure has a legitimate source to evade confiscation.[73]

63. The consequences of Switzerland's controversial application of the "proportional confiscation" method in the present case have also attracted the attention of foreign parliaments. In June 2023, the US Helsinki Commission called on the Secretary of State and the Secretary of the Treasury to impose sanctions against Vinzenz Schnell, Patrick Lamon and Michael Lauber "for their involvement in abetting Russian nationals to regain funds originally frozen in connection with the fraudulent tax scheme, and accepting unauthorised gifts and trips paid for by Russian officials and oligarchs".[74] The Swiss Government and the OAG have rejected these criticisms, maintaining that their handling of the case was legally sound.[75]

64. While it is a welcome development that the Swiss Federal Supreme Court rejected the "proportional confiscation" method as unlawful (see paragraph 29 above), I regret that this finding was not motivated by the need to increase the effectiveness of the anti-money laundering framework, but because it was considered too radical. The new "sedimentation theory" might also raise concerns about undue leniency towards entities with high liquidity involved in money laundering. Its practical operation and impact on the effectiveness of anti-money laundering framework should be closely monitored in the coming years.

4.4. The role of Swiss financial institutions

65. The involvement of Swiss banks, notably Credit Suisse and UBS, in managing illicit Russian funds has also attracted considerable public attention and raised concerns. Despite extensive investigations lasting over a decade, there has been no public accountability for bank executives or employees associated with the opening and managing of accounts linked to substantial money laundering activities. This contrasts with the accountability measures implemented for other European banks, such as Danske Bank in the United States[76] and Estonia[77], ABLV Bank in Latvia[78], Swedbank[79] and Nordea Bank,[80] where both the banks and their employees faced severe consequences for failing to comply with anti-money laundering obligations.

66. Drew Sullivan, Co-Founder of the Organized Crime and Corruption Reporting Project (OCCRP), testified before the US Helsinki Commission on the scale of Russian funds within the Swiss banking system.[81] He estimated that at least US$200 billion in illicit funds may be under-reported in Switzerland, with the actual figure possibly being twice that amount.

67. Significant information leaks, such as the 2021 incident involving Credit Suisse that revealed over 18 000 accounts tied to questionable activities, have raised questions about the integrity of the Swiss banking system.[82] These accounts have been linked to various corruption scandals, often connected to prominent figures in Russia. Despite commitments from Credit Suisse to address these challenges, fundamental reforms have yet to materialise, leading to concerns about prioritising institutional reputation over substantial change.

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72. FATF (2012-2023), "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation", www.fatf-gafi.org/en/publications/Fatfrecommendations/amendment-FATF-standards-global-asset-recovery.html.
73. FATF, "Best Practices on Confiscation (Recommendations 4 And 38) and a Framework for Ongoing Work on Asset Recovery", p. 8. See also: Resolution 2218 (2018) "Fighting organised crime by facilitating the confiscation of illegal assets" and Doc. 14516 (rapporteur: Mr Mart van de Ven, Netherlands, ALDE).
74. www.csce.gov/international-impact/press-and-media/press-releases/commissioners-call-administration-review-swiss.
75. www.swissinfo.ch/eng/politics/magnitsky-affair-sanctions-sought-against-ex-swiss-attorney-general/48698566.
76. www.justice.gov/opa/pr/danske-bank-pleads-guilty-fraud-us-banks-multi-billion-dollar-scheme-access-us-financial; https://danskebank.com/news-and-insights/news-archive/company-announcements/2022/ca13122022b.
77. www.occrp.org/en/project/the-azerbaijani-laundromat/the-contract-factory-inside-danske-bank-estonias-money-laundering-machine.
78. www.occrp.org/en/news/latvian-prosecutors-charge-bankers-with-laundering-21b-euro.
79. www.bloomberg.com/news/articles/2024-09-10/former-swedbank-ceo-sentenced-to-prison-for-gross-swindling?embedded-checkout=true; https://www.reuters.com/article/economy/swedbank-hit-with-record-386-million-fine-over-baltic-money-laundering-breaches-idUSKBN2163LT/; https://ofac.treasury.gov/recent-actions/20230620_33.
80. www.dfs.ny.gov/reports_and_publications/press_releases/pr20240827; www.nordea.com/en/press/2024-08-27/nordea-reaches-resolution-with-us-authority-regarding-old-aml-procedures.
81. www.csce.gov/hearings/russias-alpine-assets-money-laundering-and-sanctions-evasion-in-switzerland/.
82. www.bbc.com/news/business-60456196.

68. The regulatory environment in Switzerland has often been regarded as favouring the banking sector, which has resulted in serious cases being addressed with minor fines rather than robust investigations. Mr Sullivan characterised the situation as one where Swiss banks strongly rely on funds of questionable origin and operate within a framework that may enable such practices, thereby contributing significantly to national tax revenues.

5. Fate of the proceeds of the Russian fraud and investigations in other States

69. In response to my letter of 27 February 2025, the Chairperson of the Swiss delegation noted that given the transnational nature of financial crimes, a narrow focus on one jurisdiction undermined the credibility and impartiality of the process. In consequence, he strongly called for the scope of my investigation to be broadened to include all relevant jurisdictions involved.

70. I agree that it is important to consider the wider context of this sophisticated laundering operation, which involved multiple waystations in different States.

71. In 2015, following a complaint filed by Hermitage Capital Management, the French authorities launched an investigation into the laundering of these funds. Investigators traced part of the laundered money to luxury real estate and business assets in France, Monaco and Luxembourg. Notably, a woman with dual French and Russian citizenship, living in Saint-Tropez, was charged with fraud and embezzlement.[83] On 9 January 2024, she was convicted of participation in laundering proceeds from an aggravated fiscal fraud and sentenced to a two-year suspended prison sentence, and a confiscation of €1 million.[84]

72. The same French investigation concerned the Danske Bank, the largest Danish bank. The investigation revealed that the Estonian branch of the Danske Bank provided services to high-risk customers without the requisite due diligence, including the suspect mentioned above, enabling them to commit offences of tax fraud and laundering its proceeds. On 27 August 2024, the Danske Bank concluded a judicial public interest agreement with the Paris National Financial Prosecutor's Office. Under the terms of this settlement, it agreed to pay a public interest fine of over €6,33 million.[85]

73. On 9 December 2022, the Danish National Special Crime Unit (NSK) ordered Danske Bank to pay a fine of DKK 3 500 million plus the confiscation of DKK 1 249 million (i.e. DKK 4 749 million or €637 000 in total), for failing to comply with its obligations to combat money laundering and the financing of terrorist activities by carrying out banking transactions involving a large number of its foreign-residing customers at the bank's Estonian branch, in the period before 31 January 2016.[86]

74. On 12 December 2022, the Danske Bank entered into a plea agreement with the DOJ. Under the terms of this plea agreement, Danske Bank pleaded guilty to conspiracy to commit bank fraud (consisting of the processing of approximately USD 160 billion transiting through US banks on behalf of foreign-residing customers) and thereby agreed to pay the sum of approximately US$2 billion. Danske Bank also committed to strengthen and improve its compliance programmes.[87] Prior to the plea agreement, an independent expert had been appointed by the Danish regulatory authority to oversee the implementation of Danske Bank's plan to remediate and enhance its anti-financial crime and anti-money laundering frameworks.

75. On 31 July 2018, in response to another complaint filed by Hermitage Capital Management, the Office of the Prosecutor General of Estonia launched a criminal investigation into Danske Bank's Estonian branch. The investigation focused on allegations that the bank had been used to launder billions of Euros, including funds originating from the fraud exposed by Mr Magnitsky. A total of close to €10 million in assets of suspects and third parties enriched by the proceeds of the crime has been seized to secure the confiscation requirements.[88] The trial of six defendants accused of taking part in the laundering scheme began in November 2023.[89]

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83. www.rferl.org/a/russia-france-freezes-accounts-magnitsky-fraud-case/27092211.html.
84. https://mesinfos.fr/ile-de-france/blanchiment-de-fraude-fiscale-une-femme-d-affaires-franco-russe-condamnee-191504.html.
85. https://danskebank.com/news-and-insights/news-archive/press-releases/2024/pr18092024.
86. https://danskebank.com/-/media/danske-bank-com/pdf/news-insights/company-announcements/2024/uk/cjip.pdf?rev=969d29fe5ac846a28f61dd845c66428b&hash=ABA7D59F4F5D53E46D7FE61FF5E64F2C.
87. www.justice.gov/archives/opa/pr/danske-bank-pleads-guilty-fraud-us-banks-multi-billion-dollar-scheme-access-us-financial.
88. www.occrp.org/en/azerbaijanilaundromat/the-contract-factory-inside-danske-bank-estonias-money-laundering-machine.
89. https://globalinvestigationsreview.com/article/estonia-money-laundering-trial-of-ex-danske-managers-begins.

76. In October 2012, the Latvian authorities opened an investigation into the money laundering reported by Hermitage. In May[90] and November 2021,[91] they confiscated two properties (worth €230 000 and €250 000, respectively), that were acquired using the proceeds of the fraud exposed by Mr Magnitsky. In their press release, Latvian investigators specifically referred to an account in Cyprus controlled by Dmitry Klyuev that was used to wire illicit funds to Latvia. Further assets related to this fraud were confiscated in 2023, tracing their origin to a professionally organised "laundromat scheme".[92]

77. In 2018, an investigation into the alleged money laundering of the proceeds of the crime exposed by Mr Magnitsky was opened in Belgium. In 2021, the Belgian authorities froze a property worth €387,500 in Antwerp, owned by a Russian couple.[93] On 20 November 2025, the Court of First Instance in Antwerp declared Hermitage's complaint inadmissible and discontinued the proceedings. The judgment has been appealed against and the case is currently pending before the appellate court.

78. In November 2014, Spain opened a criminal case concerning the reported money in relation to several real estate properties acquired in Spain using the proceeds of the US$230 million fraud uncovered by Sergei Magnitsky. The case was overseen by a Spanish prosecutor from the *Fiscalía Anticorrupción* and was investigated by the Judicial Police Unit attached to the Special Prosecutor's Office for Corruption and Serious Organized Crime.[94] On 12 December 2022, the *Fiscalía Anticorrupción* announced the seizure of 75 properties with an estimated value of €25 million. It was also revealed that a suspect was arrested in the Canary Islands and that Spain was seeking to seize three properties, two high-end cars and 19 bank accounts linked to that suspect.[95]

79. The authorities of the Republic of Moldova opened an investigation pursuant to Hermitage's complaint, in December 2012. Despite the formal initiation of proceedings, the investigation saw no meaningful progress. The head of Moldova's National Anticorruption Centre, Viorel Chetraru, admitted that his office received documentary evidence of the laundering but had not obtained any co-operation from Russian authorities, which he claimed was essential for the investigation to proceed. No individuals in Moldova have been prosecuted for their role in laundering the Magnitsky money. The investigative authorities provided the DOJ and the Swiss investigators with information on two Moldovan companies which had participated in the laundering of illicit funds and transferred their proceeds to Swiss accounts held by Prevezon, whose beneficial owner was Denis Katsyv.[96]

80. Despite having been provided with detailed information by Hermitage, Cypriot authorities have not recovered any of the laundered money nor initiated prosecutions directly related to the Magnitsky case. According to investigations by independent journalists, Dmitry Klyuev was able to invest US$3.3 million in October 2009 via Melkov Limited. In 2019, the property was sold and the proceeds were repatriated after the company was re-registered to Sergei Smorodin, who had reportedly acted as a proxy for Klyuev in multiple transactions.[97] Our colleague, Pieter Omtzigt (the Netherlands, EPP/CD), criticised Cyprus for its failure to hold anyone to account.[98]

81. As a side note, I would like to emphasise the evident resolve and determination of Hermitage and Sir William Browder to ensure that those responsible for Mr Magnitsky's death and those who benefited from the fraud he uncovered are held to account. Sir William's dedication has already led to the enactment of the so-called "Magnitsky laws", enabling the imposition of targeted sanctions against perpetrators of serious human rights violations and corruption, in several Council of Europe member and observer States and by the European Union.

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90. www.vp.gov.lv/lv/jaunums/valsts-policija-magnitska-izmeklesanas-lieta-konfisce-aktivus-230-tukstosu-eiro-apmera.
91. www.vp.gov.lv/lv/jaunums/valsts-policija-turpinot-izmeklet-magnitska-lietu-konfiscejusi-vel-vienu-ipasumu-250-tukstosu-eiro-vertiba.
92. www.vp.gov.lv/lv/jaunums/valsts-policija-sogad-magnitska-lieta-konfiscejusi-bezskaidras-naudas-lidzeklus-122-757-eiro-apmera.
93. https://euobserver.com/world/151985.
94. www.lavanguardia.com/politica/20190409/461565007973/magnitsky-anticorrupcion-audiencia-nacional-desvio-230-millones-funcionarios-rusos.html.
95. www.europol.europa.eu/media-press/newsroom/news/magnitsky-case-money-launderer-arrested-in-spain
96. www.rferl.org/a/magnitsky-browder-missing-money-russia-moldova/24925098.html.
97. www.occrp.org/en/project/cyprus-confidential/glamorous-cyprus-resorts-investors-linked-to-infamous-magnitsky-affair.
98. www.occrp.org/en/news/post-magnitsky-cyprus-fails-to-tackle-money-laundering.

6. Conclusions and recommendations

82. In its second "Report on the national evaluation of the risks of money laundering and terrorist financing in Switzerland", the Swiss interdepartmental co-ordinating group on combating money laundering and the financing of terrorism noted that the main risk to which Switzerland is exposed is that of being used as a location for laundering the assets acquired from financial crimes committed abroad. This is explained by the strong international focus of the Swiss financial centre and, in particular, its dominant position in cross- border asset management and, to a lesser extent, commodity trading.[99] Possible weaknesses in Swiss anti-money laundering compliance could thus allow illicit funds to flow through its institutions, negatively affecting international efforts to combat money laundering, terrorist financing, and tax evasion. It is therefore in Switzerland's and Europe's interest to strongly deter money launderers.

83. During the hearing before the Committee on Legal Affairs and Human Rights, Sir William Browder recalled that the OAG decided to release part of the assets owing to the fact that the financial process had been too complicated to trace their origin. He stated that such an approach would facilitate future money laundering through the creation of complex structures. His position was echoed by Professor Mark Pieth, who noted that the "proportional confiscation" method adopted by the OAG heavily benefitted money launderers. Professor Pieth criticised the Swiss banks and its justice system, who – in his view – have acted in favour of fraudsters and launderers in the present case. He emphasised the importance of the Swiss financial system, which manages about one quarter to one third of all global private wealth.

84. According to the position of Switzerland, the proportional method was designed to address the practical challenge of tracing illicit funds that have been co-mingled with legal assets. It allows authorities to identify and confiscate the criminal portion without penalising the licit assets of the account holder. The burden of proof for establishing the link between the crime and the assets remained with the prosecuting authority. The proportional method was a tool to help meet this burden when funds are mixed.

85. Given the focus on Switzerland of the motion underlying my report, I wanted to accurately reflect the Swiss perspective in this report. Nobody can deny that Switzerland has achieved significant progress in strengthening its anti-money laundering framework since the latest FATF evaluation round, which identified certain room for improvement. However, I fear that for corrupt Russian elites and criminals, the present case served just as a test before they try similar schemes, this time on a much larger scale.

86. I find it deeply troubling that despite the involvement of three persons known to have participated in the fraud exposed by Sergei Magnitsky and/or the subsequent laundering scheme and the finding that some of their assets did in fact originate from the predicate offence in Russia, these men are allowed to walk away with the majority of their funds intact, even though the origin of some of these assets remains unknown. In my view, the root cause of this problem is that under Swiss law, the reversal of the burden of proof (thus requiring the holder of suspected assets to prove their lawful origin) is limited only to a narrow category of cases: involving the operation of a criminal organisation or a politically exposed person. Considering the rising level of sophistication of money laundering operations, the strict adherence to confiscation as a predominantly criminal measure risks limiting the State's ability to effectively combat money laundering. For this reason, I propose that the Assembly invite Switzerland, as well as any other member or observer States who have not yet done so, to amend their legislation in this regard, in line with the growing international trend, which was summarised in the report entitled "Fighting organised crime by facilitating the confiscation of illegal assets".[100] Currently, the FATF does not require States to introduce such measures to ensure compliance with its recommendations (only to "consider" introducing). For the reasons set out above, I also propose to call on FATF and MONEYVAL to strengthen their recommendations in this regard and explicitly require States to enable the reversal of the burden of proof involving the origin of unexplained wealth.

87. It is also worth noting that in the wake of the Russian Federation full-scale invasion of Ukraine, Switzerland took the commendable step of implementing the same sanctions as the European Union. Nevertheless, I find it deeply regrettable that despite the well-established and close links of Messrs Klyuev, Katsyv and Stepanov to the Russian State apparatus, a large portion of the money seized in their accounts will be returned to their disposal. This is particularly worrisome at a time when the Russian Federation is seeking to maximise its territorial gains in Ukraine and is increasing the scale and gravity of its attacks against the civilian population of Ukraine.

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99. National risk assessment (NRA), Report on the national assessment of the risks of money laundering and terrorist financing in Switzerland, August 2021.
100. Doc. 14516, op. cit.

88. In the context of sanctions imposed by the European Union, I found it surprising that despite the entry into force of the European Union Magnitsky Act and the inclusion of numerous persons on its sanctions list, the European Union has not yet sanctioned anyone involved in the death of Sergei Magnitsky. Moreover, the European Union sanctions regime targets those responsible for serious human rights violations or abuses, for repression of civil society and democratic opposition, and for undermining democracy and the rule of law in Russia, as well as in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. Government officials involved in corruption or those who benefit from human rights violations (such as Messrs Stepanov, Klyuev and Katsyv) do not fall into any of these categories. This is why I have proposed that the European Union sanctions regime be expanded in this regard.