



www.studiolegaleinternazionale.online

Century Plaza Towers
2029 Century Park East
Suite 400
Los Angeles
(CA) 90068
USA

TEL: +1 (424)202 3600/+39 329 627 4773
gds.studiolegaleinternazionale@gmail.com

MONACO/ROME/BELGRADE: 05.12.2025

LEGAL OPINION

Re: Proposed EU and UK Seizure of Frozen Russian State Assets for Use in Ukraine

This opinion addresses the legality, under international law, EU law, and domestic UK law, of proposals to **confiscate**—not merely freeze—Russian sovereign assets currently immobilised within EU and UK jurisdictions. The conclusion is unequivocal: **any direct appropriation, expropriation, or diversion of Russian sovereign funds for the benefit of Ukraine is unlawful, violates multiple binding legal instruments, and exposes decision-makers to future personal liability.**

1. Sovereign Immunity – Absolute Prohibition on Confiscation

1.1 Customary International Law

The doctrine of **state immunity from execution** is absolute regarding sovereign (central bank, treasury) assets.

Leading authorities include:

- **ICJ, Germany v Italy (Jurisdictional Immunities, 2012)** – sovereign property is immune from seizure *even in the face of serious allegations of international wrongdoing*.
- **UN Convention on Jurisdictional Immunities of States and Their Property (2004), Arts. 18–19** – codifies the prohibition on measures of constraint against state property; widely accepted as reflective of customary international law.

1.2 Central Bank Immunity

- **Art. 21(1)(c), UN Immunities Convention** – specifically protects central bank assets from attachment, seizure, or execution.
- Numerous national courts (US, UK, France, Germany) treat central bank immunity as *almost absolute*.

Thus, confiscating Russian Central Bank funds violates a fundamental pillar of international law.

2. International Treaties Binding on EU and UK

2.1 UN Charter – Articles 2(1), 2(4), 2(7)

- Respect for **sovereign equality** prohibits arbitrary seizure of another state's assets.
- **Art. 2(4)** forbids coercive measures outside the UN Security Council framework.
- Using another state's assets for a third state's benefit constitutes **economic coercion**, not authorised by the UN.

2.2 Vienna Convention on the Law of Treaties (VCLT)

- **Art. 26 – Pacta Sunt Servanda:** States must uphold binding commitments (including immunities).
- **Art. 27:** Domestic law cannot justify breach of international obligations.
Any EU or UK legislative act purporting to legalise confiscation would therefore remain internationally unlawful.

3. International Human Rights and Property Protections

3.1 Protocol No. 1, Art. 1, ECHR (A1P1)

- Protects peaceful enjoyment of possessions.
- Applies not only to individuals but to **state entities owning property within the jurisdiction.**

Seizure without lawful basis, proportionality, or public necessity fails all three stages of the ECtHR test.

Freezing is permissible; **confiscation is not.**

4. European Union Law

4.1 EU Charter of Fundamental Rights – Art. 17

- Absolute protection of the right to property.
- Expropriation is allowed only “**in the public interest, under conditions provided for by law and subject to fair compensation.**”
No compensation, no proportionality, no lawful basis → direct violation.

4.2 EU Treaties

- **TEU Art. 21:** EU external action must conform to the UN Charter and international law.
- **TFEU Art. 215:** Restrictive measures allow *freezing*, not **transfer** or **confiscation**, of sovereign assets.

There is **no Treaty competence** permitting expropriation of non-EU sovereign property.

Any attempt would exceed EU competence and be ultra vires.

5. United Kingdom Law

5.1 State Immunity Act 1978, s. 13(2)(b)

- Absolutely prohibits seizure, forfeiture, or execution against property of a foreign state, *including central bank assets*, without that state's consent.

5.2 Human Rights Act 1998

- Incorporates A1P1 ECHR into UK law.
- Confiscation cannot survive proportionality review.

Any UK bill enabling seizure would directly contradict binding statutory provisions and would be **void or challengeable** via judicial review and Strasbourg.

6. Distinction Between FREEZING and SEIZING

- **Freezing** preserves assets pending a political or legal resolution. It is lawful.
- **Seizing/confiscating/diverting** the assets constitutes:
 - Unlawful expropriation
 - Violation of sovereign immunity
 - Breach of international law
 - Act of hostility amounting to unlawful coercion

The two concepts are legally and conceptually distinct.

No state can cure the illegality of confiscation by legislating internally.

7. Personal Liability of Decision-Makers

Decision-makers may incur **future civil and criminal exposure**, including:

7.1 Ultra Vires Governmental Acts

Officials authorising conduct beyond their legal powers may be held personally liable in future litigation.

7.2 Wrongful Acts Under International Law

Officials participating in unlawful seizure of sovereign assets may face:

- Claims in national courts when political circumstances change
- Claims in international arbitration
- State-to-state proceedings (ICJ)

7.3 Criminal Liability (Abuse of Office / Misconduct in Public Office)

If confiscation is later deemed unlawful, individual ministers and civil servants may face accountability for:

- Misuse of public power
- Knowing violation of treaty obligations
- Causing international financial damage

Personal liability is not academic. It is real, long-term, and unavoidable.

8. Conclusion

The proposed EU and UK measures to **seize** Russian sovereign assets and deploy them for Ukrainian reconstruction or military support are **unequivocally unlawful**.

They violate:

- Customary international law on sovereign and central-bank immunity
- UN Charter Articles 2(1), 2(4), 2(7)
- Vienna Convention (Arts. 26–27)
- ECHR Protocol 1 Art. 1

- EU Charter Art. 17 and EU Treaties
- UK State Immunity Act 1978

No legislative or political justification can cure the illegality.

Those advancing or implementing such measures risk **personal liability** when the political landscape evolves and judicial scrutiny inevitably arises.

This policy would set a catastrophic precedent, destabilise the global financial system and breach the most fundamental norms of international law.

GIOVANNI DI STEFANO