



Resolution 2252 (2019)¹

Provisional version

Sergei Magnitsky and beyond – fighting impunity by targeted sanctions

Parliamentary Assembly

1. The Parliamentary Assembly reaffirms its commitment to the fight against impunity of perpetrators of serious human rights violations and against corruption as a threat to the rule of law.
2. It recalls its [Resolution 1966 \(2014\)](#) on refusing the impunity of the killers of Sergei Magnitsky, urging the competent Russian authorities to fully investigate the circumstances and background of the death in pretrial detention of Sergei Magnitsky and to hold the perpetrators to account. Mr Magnitsky had denounced a large-scale fraud against the Russian State budget by criminals benefiting from the collusion of corrupt officials. [Resolution 1966 \(2014\)](#), adopted in January 2014, envisaged targeted sanctions, such as visa bans and asset freezes, against the individuals involved in this crime and its cover-up, as a means of last resort.
3. At the end of 2014, the Committee on Legal Affairs and Human Rights took the view that the Russian Federation had not made any progress in the implementation of the Assembly's resolution. Instead of holding to account the perpetrators of the crimes committed against Mr Magnitsky and disclosed by him, the Russian authorities harassed Mr Magnitsky's mother, his widow and his former client, Mr William Browder. In January 2015, the Assembly's President therefore transmitted [Resolution 1966 \(2014\)](#) to all national delegations for follow-up by the competent authorities.
4. Since then, the Russian authorities have still not made any progress in prosecuting the perpetrators and beneficiaries of the crime against Sergei Magnitsky, despite his family's active engagement in the proceedings. All criminal cases against the officials involved in Mr Magnitsky's ill-treatment and killing were closed; some of these officials were publicly commended by senior representatives of the State, and others received promotions.
5. The Assembly further notes that Mr Magnitsky's former client, Mr William Browder, who is leading a worldwide campaign against impunity, continues to be harassed and persecuted by the Russian authorities, among other things by repeated attempts to abuse Interpol's Red Notice and Diffusion procedures. The Assembly notes with regret that, notwithstanding its [Resolution 2161 \(2017\)](#) "Abusive recourse to the Interpol system: the need for more stringent legal safeguards", Russia again attempted, in January 2019, to misuse Interpol's procedures against Mr Browder.
6. Meanwhile, several member and observer States (including Estonia, Latvia, Lithuania, the United Kingdom, Canada and the United States) have adopted legislative and other instruments to enable their governments to impose targeted sanctions on perpetrators and beneficiaries of serious human rights violations.
7. The Assembly welcomes the fact that the most recent such instruments (in the United States, Canada and the United Kingdom) are not limited to persons from particular countries, or found to be involved in particular crimes, such as the killing of Sergei Magnitsky. They potentially cover any and all perpetrators of serious human rights violations enjoying impunity in their own countries, whichever they may be.

1. *Assembly debate* on 22 January 2019 (4th Sitting) (see [Doc. 14661](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Lord Donald Anderson). *Text adopted by the Assembly* on 22 January 2019 (4th Sitting).



8. The Assembly also warmly welcomes the initiative by the Netherlands and others in the Council of the European Union to enact a legal instrument allowing for targeted sanctions to be applied to perpetrators of human rights violations without geographical limitations. It calls on the Council of the European Union to include a reference, in the title of this instrument, to Sergei Magnitsky, whose name stands for all the brave people in numerous countries who have lost their lives fighting corruption and upholding human rights and the rule of law.

9. The United Kingdom's Criminal Finances Act 2017 defines "gross human rights abuse or violation" as cruel, inhuman or degrading treatment or punishment of a person who has sought to expose illegal activity carried out by a public official or a person acting in an official capacity, or to defend or promote human rights and fundamental freedoms; when such treatment is carried out by a public official or a person acting in an official capacity or at the instigation or with the consent of such an official. Similar definitions are included in the United States and Canadian Magnitsky Acts.

10. The Assembly welcomes the fact that the Parliament of Georgia has recently adopted a resolution which establishes a sanctions list of perpetrators and persons responsible for the cover-up of grave human rights violations on the Georgian territory that is currently not under the effective control of the Georgian authorities (the Otkhozoria-Tatunashvili list), and supports the measures proposed by a resolution of the European Parliament on 6 June 2018 (2018/2741).

11. The Assembly considers targeted ("smart") sanctions against individuals and affiliated companies as preferable to general economic or other sanctions against entire countries:

11.1. targeted sanctions send a clear message to individual perpetrators of serious human rights violations that they are not welcome in the countries adopting the sanctions and that these countries will not allow them to use their financial institutions to aid and abet their reprehensible actions or enjoy the proceeds of their crimes;

11.2. general sanctions, by contrast, hurt mostly ordinary people but least of all the ruling elites who are responsible for the actions that gave rise to the sanctions.

12. The Assembly also recalls its [Resolution 1597 \(2008\)](#) on UN Security Council and EU anti-terrorism blacklists and insists that the requirements of procedural fairness and transparency laid down in this resolution shall also apply to those accused of serious human rights violations other than terrorism.

13. The Assembly therefore calls on all member States of the Council of Europe, the European Union and States having observer or any other co-operative status with the Council of Europe and its Parliamentary Assembly to:

13.1. consider enacting legislation or other legal instruments enabling their executive, under the general supervision of parliament, to impose targeted sanctions such as visa bans and account freezes on individuals reasonably believed to be personally responsible for serious human rights violations for which they enjoy impunity on political or corrupt grounds;

13.2. ensure that such legislation or legal instrument lays down a fair and transparent procedure for the imposition of targeted sanctions as indicated in respect of terrorist offences in [Resolution 1597 \(2008\)](#), in particular by making sure that:

13.2.1. targeted persons are informed of the imposition of sanctions and of the full and specific reasons for their imposition, and that they are given the opportunity to respond within a reasonable time to the case made in support of the sanctions;

13.2.2. the instance taking the decision on imposing sanctions is independent of that collecting information and proposing to include a person in the sanctions list;

13.2.3. the initial decision to impose sanctions may be challenged before a court of law or an appeals body that enjoys sufficient independence and decision-making powers, including the power to delist a targeted person and to provide him or her with adequate compensation in case of erroneous sanctions;

13.3. co-operate with one another in identifying appropriate target persons, including the use of relevant European Union mechanisms and by sharing information on persons included in sanctions lists and the grounds for their reasonable belief that these persons are responsible for serious human rights violations and benefit from impunity on political or corrupt grounds;

13.4. make use of the vast pool of information and evidence on serious human rights violations whose perpetrators enjoy impunity collected and documented by local, national and international non-governmental human rights organisations, and, amongst others, the “Natalya Estemirova Documentation Centre” in Oslo (Norway);

13.5. refrain from co-operating with any politically motivated prosecutions relating to the Magnitsky case, such as the ones focusing on his former client, Mr William Browder.

14. In addition, the Assembly encourages its member parliamentarians to:

14.1. follow the precedent set by fellow parliamentarians in a number of those countries which have already taken action in this field by seeking to persuade their governments to adopt similar proposals and, where appropriate, to take legislative initiatives themselves;

14.2. maintain close liaison with the Assembly on any such initiatives they propose or have taken and seek relevant advice and assistance from the Assembly if needed.