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# Corruption and national security: How does one end up on the US blacklist?

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# Introduction

High corruption, among other things, is a serious threat to international peace and security. In authoritarian states, the concentration of power, bundled up with corruption in the highest political ranks, enables consolidation of these regimes, which often have expansionist tendencies. One such example is the Russian invasion of Ukraine, which threatened the international security and caused serious consequences for the global economy. Years ago, the Russian government led by Vladimir Putin took a series of actions aimed at suppressing the opposition, limiting the space for independent media and civil society organizations, and suppressing political institutions that could call him to account. At the same time, a group of oligarchs loyal to the regime acquired large fortunes through serious corrupt schemes. Because of this, the Russian government had the “freedom” to follow on its expansionist tendencies without facing criticism and political opposition from within the country.

On the other hand, the international community introduced many economic, diplomatic and military sanctions against Russia, as well as targeted sanctions against persons connected to the regime. For example, the US Government has banned entry and access to the state's financial system to several politicians, oligarchs, businessmen, public officials who are directly or indirectly involved in the Russian invasion of Ukraine and are a potential threat to national security. The grounds for introduction of such sanctions is the Global Act "Magnitsky", which allows the US Government to sanction individuals from all over the world who are guilty of human rights violations and high corruption, by banning entry and freezing the property they own in the country.

In 2021, based on this Act, the President of the United States adopted a special executive order targeting and sanctioning individuals from the Western Balkans. Through the decision, the US began to create a "black list" of current and former officials, businessmen as well as persons and companies close to them from the region, guilty of violating human rights and involved in high corruption. Former Prime Minister Nikola Gruevski and former director of the Security and Counterintelligence Agency Sasho Mijalkov were also on the list. Recently, the US Government also announced that it will undertake more serious efforts to expand the list, for which support and alliance from the national authorities will be necessary.

## What is the Global Act “Magnitsky” and who can be sanctioned

The US authorities, through the "Magnitsky" Act in 2012, introduced for the first time targeted sanctions against individuals involved in serious corruption and human rights violations. The Act more specifically referred to a group of people from the Russian Federation responsible for the torture and death of Sergei Magnitsky - a Russian tax expert who, after discovering a large corrupt scheme involving members of the Russian government, was detained, tortured and soon died in prison.<sup>1</sup> The act enabled the introduction of economic sanctions against these persons, that is, freezing of finances and property that they own in the United States, as well as a ban on entering the country. "Magnitsky" emphasizes the connection between the exercise of human rights and corruption, that is, it starts from the fact that corruption usually deprives citizens of the resources needed to exercise their rights. Therefore, sanctions are provided for corrupt acts even when there is no clearly visible violation of human rights.<sup>2</sup> Later, in 2016, the US Congress also passed the Global Act "Magnitsky", which allows persons from any part of the world guilty of corruption and human rights violations to be placed on a "blacklist" and to be subject to this type of sanctions.

The sanctions provided for in the Act refer to acts of high corruption. This means that, in addition to illegal acquisition of a greater material benefit, the connection with the government (directly, through performance of a public office or indirectly, through cooperation with government agencies) is a prerequisite for a person to be on

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<sup>1</sup>Implementation of the Global Magnitsky Act, Columbia Law School, 2018. Available at: [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1025&context=public\\_integrity](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1025&context=public_integrity)

<sup>2</sup>Global human rights sanctions Mapping Magnitsky laws: The US, Canadian, UK and EU approach, European Parliament, 2021. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698791/EPRS\\_BRI\(2021\)698791\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698791/EPRS_BRI(2021)698791_EN.pdf)

the "black list". So far, the list has included current and former government officials from around the world, as well as companies with which they are connected, their close associates responsible for or complicit in high corruption. This is made possible through the approach of introducing "network sanctions" through which not only the individuals directly involved in the corrupt scheme are targeted, but also their associates, the legal entities they own or manage, including persons that offer any assistance or facilitation to the members of the corruptive network.

According to the Act, the presidents and members of the relevant commissions in the Congress, countries and civil society organizations working in the field of human rights can propose persons who should be sanctioned.<sup>3</sup> Civil society organizations play a significant role in this process, with at least 34% of the sanctions introduced in the US so far being based on proposals from civil society organizations.<sup>4</sup>

The Act does not prescribe specific standards or strict criteria in the stage of submission of proposals. This means that it is not defined what evidence needs to be gathered in order to determine whether a person should be listed, but that is ultimately the task of the US authorities. However, in the process of gathering information for submitting proposals, petitioners should take care that several conditions are met. First of all, whether it is a current or former government official or a person (natural or legal) who takes actions on his behalf or is an accomplice in high corruption. Then, whether the person was involved in corruption while serving a mandate, or members of the institution he led were involved in corruption while serving his mandate. Also, whether the person attempted to provide or has provided material and financial resources or any type of assistance for the purpose of supporting corruption, or to a person sanctioned under the "Magnitsky" Act. Finally, whether the person acts on behalf of someone who is sanctioned under the Act and whether his personal data is available.<sup>5</sup>

In terms of offenses, sanctions are introduced for involvement in money laundering, bribery, misuse of public funds for personal gain, corruption related to government contracts, misuse of natural resources, as well as fraud and transfer of proceeds of corruption to foreign jurisdictions.<sup>6</sup> Of these, the most commonly cited reasons for imposing corruption-related sanctions in the US were bribery (68%), corruption related to government contracts (57%) and misuse of government funds (43%).<sup>7</sup>

Proposals are submitted to the State Department. Specifically, after receiving the proposals from the relevant petitioners, the Assistant Secretary of State for Democracy, Human Rights and Labor, in consultation with the Assistant Secretary of State for Consular Affairs, submits the proposals to the Secretary of State, who later reviews them.<sup>8</sup> Other US Government agencies may participate in the review process to verify the allegations of the proposals and make a decision based on a thorough review of information and evidence.<sup>9</sup> Then, the final decision on sanctions is made by the President of the country, and the sanctions are implemented through the US Treasury, or rather the Office of Foreign Assets Control.

## “Magnitsky” sanctions in the Western Balkans

Based on the "Magnitsky" Act, in June 2021, the President of the United States issued a special executive order for the Western Balkans through which the American Government can sanction all persons who contribute to the destabilization of the region. The decision refers to those who threaten democratic institutions, security, territorial

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<sup>3</sup>Global Magnitsky Human Rights Accountability Act, United States Congress, 2016. Available at: <https://www.congress.gov/bill/114th-congress/senate-bill/284/text>

<sup>4</sup>Multilateral Magnitsky Sanctions at Five Years, Redress, 2022. Available at: <https://redress.org/wp-content/uploads/2022/11/Multilateral-Magnitsky-Sanctions-at-Five-Years-November-2022.pdf>

<sup>5</sup>Global Magnitsky Sanctions Frequently Asked Questions, Human Rights First, 2020. Available at: <https://humanrightsfirst.org/wp-content/uploads/2022/09/Global-Magnitsky-FAQs.pdf>

<sup>6</sup>Multilateral Magnitsky Sanctions at Five Years, Redress, 2022. Available at: <https://redress.org/wp-content/uploads/2022/11/Multilateral-Magnitsky-Sanctions-at-Five-Years-November-2022.pdf>

<sup>7</sup>Ibid.

<sup>8</sup>Global Magnitsky Human Rights Accountability Act, United States Congress, 2016. Available at: <https://www.congress.gov/bill/114th-congress/senate-bill/284/text>

<sup>9</sup>Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption, Federal Register, 2017. Available at: [https://home.treasury.gov/system/files/126/glomag\\_eo.pdf](https://home.treasury.gov/system/files/126/glomag_eo.pdf)

integrity, the implementation of peace agreements, including the Prespa Agreement, as well as persons involved in high corruption.

After making this decision, the US Government began creating a "blacklist" of people from the region. Until now, the biggest expansion of this list was in April 2022, when seven people were placed on the list, that is, two each from Albania, Bosnia and Herzegovina, North Macedonia and one person from Montenegro.

The persons are well known in the public, most of whom held or are holding public office. So, ex-prime minister Nikola Gruevski and his company in Hungary, and the former director of the Security and Counterintelligence Office Sasho Mijalkov; Aqif Rakipi, a former member of parliament and Yili Ndroqi, a media owner from Albania; Svetozar Marović, former vice-president of the Democratic Party of Socialists of Montenegro and former president of the Federation of Serbia and Montenegro; Asim Sarajlic, former Member of Parliament and Gordana Tadic, Public Prosecutor from Bosnia and Herzegovina are part of the list.<sup>10</sup>

All those who were sanctioned from the region are accused of acts of high corruption.

Aqif Rakipi is accused of his involvement in organized crime and exercising political influence through corruption. Specifically, Rakipi is accused of using his political influence in order to appoint people close to him in public positions in Elbasan and Tirana.<sup>11</sup>

Ndroqi is accused of extortion and blackmail, that is, he demanded money from citizens, and in exchange he promised not to publish negative news about them in the media under his control. In addition, Ndroqi facilitated the bribery of citizens on behalf of an entity whose goal was to open a business in Albania.<sup>12</sup>

Asim Sarajlic is involved in a corruption scandal "Afira Asim". In the affair, Sarajlic is accused of using his political influence where he promised employment to the wife of a party member, Velid Tvrtkovic, in exchange for his vote for a specific candidate in internal party elections. Sarajlic is also accused of using his political influence to gain employment at BH Telecom, which is one of the largest state-owned enterprises in BiH. Sarajlic allegedly accepted money from applicants in exchange for obtaining job.<sup>13</sup>

Gordana Tadic is accused of abusing her position as a prosecutor in order to promote personal and family interests, that is, she allegedly used an allowance for a state-owned apartment through a fictitious contract.<sup>14</sup>

Marovic was arrested by Montenegrin authorities in 2015 for involvement in major corruption cases related to construction projects in the municipality of Budva. Marović was accused of using his political influence to approve a series of property acquisitions and construction deals that benefited several companies significantly and caused large losses for local authorities.<sup>15</sup>

What can be noted is that almost all persons from the Western Balkans who were blacklisted in April 2022 are accused of using their political influence in order to achieve some benefit. In the majority of cases, it is mostly for the purpose of securing job positions for their close people or in return for some benefit, or using the influence for the purpose of direct financial gain. Although almost all have resigned or been dismissed from public office, what is also common to the sanctioned persons from the region is that the competent authorities in the domestic legal systems have passed judgment on the acts they have committed, but most do not serve the prescribed sentence.

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<sup>10</sup>Sanctions for individuals from Western Balkans – proof that the US remains committed to the fight against corruption?, European Western Balkans, 2022. Available at:

<https://europeanwesternbalkans.com/2022/05/04/sanctions-for-individuals-from-western-balkans-proof-that-the-us-remains-committed-to-the-fight-against-corruption/>

<sup>11</sup>USA imposed sanctions on seven people in the Western Balkans, Radio Slobodna Evropa, 2022. Available at:

<https://www.slobodnaevropa.org/a/sjedinjene-drzave-zapadni-balkan-sankcije/31797204.html>

<sup>12</sup>Treasury Targets Actors for Destabilizing Behavior Throughout the Western Balkans, US Department of the Treasury, 2022. Available at:

<https://home.treasury.gov/news/press-releases/jy0712>

<sup>13</sup>Afera "Asim": Potvrđena optužnica protiv Asima Sarajlića i drugih, Glas Amerike Bosna I Hercegovina, 2021. Available at:

<https://ba.voanews.com/a/potvrđena-optu%C5%BEenica-u-slu%C4%8Daju-asim-za-namje%C5%A1tanje-izbora-u-sda/6371097.html>

<sup>14</sup>Pravosuđe u BiH dobilo od SAD sve o slučaju bivše tužiteljice Tadić, Radio Slobodna Evropa, 2022. Available at:

<https://www.slobodnaevropa.org/a/sjedinjene-drzave-tuzilastvo-bih-gordana-tadic/31808741.html>

<sup>15</sup>Treasury Targets Actors for Destabilizing Behavior Throughout the Western Balkans, US Department of the Treasury, 2022. Available at:

<https://home.treasury.gov/news/press-releases/jy0712>

## Conclusion

The fight against corruption should also take into account the effects it can have on the national security. In that direction, the introduction of targeted sanctions, following the example of the USA, against individuals directly involved in acts of corruption is particularly significant. Sanctioning individuals by banning entry into a country and access to its financial system, which is made possible with the Global Act “Magnitsky”, is a powerful tool for preserving international peace and security. All the more, this approach enables targeting of persons who are directly guilty of acts of high corruption and violations of human rights and emphasizes that individuals bear consequences for their acts in the international sphere as well. It is particularly important that the basic criterion for sanctioning under this Act should be persons who are current or former public officials, who, in the Western Balkans, very often do not serve sentence for the acts they are accused of.

The "black list" that the US has begun to create for persons from the Western Balkans involved in acts of high corruption should be recognized as an opportunity to strengthen domestic anti-corruption efforts. National authorities should show readiness to join the global sanctions against persons who, with their participation in corruption, act corrosively in countries that are our partners and follow the example of the USA, the United Kingdom and the EU. Even more important than this is for the authorities to take action and sanction domestic corruption actors in a timely manner, thus demonstrating readiness to fight corruption, rather than waiting for international partners to solve the problem. In this way, the country will show that it is an ally in the fight against corruption and joins the efforts of the international community to deal with corruption in the country.

## About the project

The project includes activities for research and advocacy in order to support the reform process in North Macedonia by strengthening the reform agenda in the area of the rule of law. For achievement of this objective, the project foresees cooperation and consultation with all relevant stakeholders in the fight against corruption.

The project aims, together with the anti-corruption institutions, to establish a strategic and long-term vision for development of the institutions in order to intercept future processes and forms of corruption. Through the project, the institutions and the Institute for Democracy will work on overview of the key social processes that will influence the fight against corruption until 2030, and based on that, plans will be drawn up for the institutions to cope with the modern challenges brought about by the fight against the corruption.

By enabling political dialogue between anti-corruption institutions, the Parliament and the civil society, the project aims to achieve three specific objectives:

- Supporting the improvement of the policy-making process, referring to the long-term visions of corruption risks and identified shortcomings;
- Informing long-term plans for institutional development, based on strategic thinking and forward-looking analyses
- Educating the public and creating public demand for improved anti-corruption planning by the authorities.

## About IDSCS

IDSCS is think tank organization which researches the development of the good governance, the rule of law and the European integrations on North Macedonia. IDSCS has a mission to assist the civil involvement in the adoption of decisions and to strengthen the participatory political culture. By strengthening the libertarian values, IDSCS contributes to coexistence between diversities.

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