DE-RISKING IMMOBILISED RUSSIAN SOVEREIGN ASSETS:

*Three Options for European Action**

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STRATEGIC OVERVIEW

As Russia continues its war on Ukraine and the US tries to return immobilised assets to Russia as a bargaining chip for "peace," Europe urgently needs a clear policy and structure to secure the assets under centralised EU control and keep them available for Ukraine. There are at least three possible routes to restructuring the immobilised assets (as summarised in the table below). This note addresses **what** Europe must do, **why** this action is a geopolitical necessity right now, and **how** it can be structured.

I. WHAT?

Europe must take decisive action to bring immobilised Russian sovereign assets under direct EU management, removing Belgium and other Member States, central securities depositories (***CSDs***) including Euroclear, and other financial institutions from the crossfire of Russian aggression. Since 2022, the EU has exercised effective political and regulatory authority over these assets. Financial management should now match that authority.

A durable European framework must fund Ukraine's budgetary needs, including defence, its recovery, and the compensation claims that the International Claims Commission for Ukraine will decide. It must achieve three objectives:

- **Protect European Financial Stability**: Remove concentrated legal and financial risks from individual institutions and Member States;
- **Sustain Ukraine**: Support Ukraine's financial resilience, defence and recovery; and
- **Ensure Accountability and Deterrence**: Create a credible pathway through which Russia directly bears the financial burden of the damage caused by its grave violation of international law.

II. WHY NOW?

Geopolitical Necessity: Russia is waging a war of attrition, targeting Ukraine's financial capacity, the foundation of its military defences, energy security, economy, and resilience. A Ukrainian collapse after five years of full-scale war would send shocks across Europe and threaten its financial stability and security, whereas Ukraine's recovery would bring benefits far beyond its borders.

The Cost of Inaction: The decision on Russian assets has been deferred for as long as possible. Inaction is a choice that risks far greater costs for national and EU budgets amid mounting financial pressures.

The legal and political baseline has already shifted: In December 2025, the EU used Article 122(1) TFEU to keep the CBR assets immobilised until specified conditions, including reparations, are met. The 2026 Ukraine Support Loan also provides that the EU reserves its right to use the immobilised Russian assets to repay the loan, in accordance with EU and international law.

European Leadership: The EU holds c. €210 billion of immobilised Russian sovereign assets, mostly in Euroclear. Belgium and Euroclear should no longer bear a disproportionate share of the risk. The cost of indemnifying residual legal risks is not the same as the value of the assets, and a properly structured, collective EU risk-sharing arrangement need not impose a disproportionate financial burden. Europe must set a credible path to hold Russia accountable, whether by QMV or consensus.

III. HOW?

Below is a summary of three principal pathways that currently dominate policy discussions.

All three options apply to banks as well as CSDs and separate the centralisation and management of assets under the EU from future use-of-funds questions.

OPTION 1: TRANSFER OF ASSETS AND LIABILITIES TO AN EU-LEVEL FUND[1]

Core principle: Move the cash balances resulting from immobilised assets and the corresponding obligation to Russia (liabilities) out of CSDs into a new EU-level custodian, an instrumentality of the EU ("***Fund***"). The Fund becomes the CBR's debtor on the same terms as the CSDs, holds the cash and invests it under a professional mandate. CSDs and their home countries are thereby relieved of the associated risks. Russia's claim remains a fixed nominal debt, owed by the Fund on unchanged terms and subject to the same release conditions and enforcement bars, which an amendment to Regulation 2025/2600 extends to the Fund.

Legal mechanism:

- The Commission would propose, and the Council would adopt by QMV, a new regulation under Article 122(1) TFEU substituting the Fund for CSDs as debtor by operation of law.[2] This is important because a contractual transfer of liabilities and discharge of each CSD may otherwise require the CBR's consent under local law (subject to the terms of the custody contracts, which are not public).
- The financial-stability rationale is the removal of concentrated enforcement risk from CSDs.
- The EU indemnifies Belgium, Euroclear, and other affected CSDs for legal costs and defence expenses, and for losses from enforcement of Russian judgments or awards outside the EU, arising from the immobilised or transferred assets. The indemnity does not cover restitution of principal, as that liability now rests with the Fund.
- The Fund operates as an EU-level custodian, without a corporate seat in any single Member State. Its mandate is to hold the CBR claim on unchanged terms, manage cash and apply windfall profits for the benefit of Ukraine, including servicing the Extraordinary Revenue Acceleration (ERA) Loans.
- Any use of the principal is a separate decision requiring its own legal basis and risk allocation.

Advantages:

- Addresses the risk presently concentrated in Euroclear and Belgium.
- Builds a durable European investment and governance structure that can generate further windfall profits for Ukraine without immediately deploying principal.
- Preserves legal continuity by maintaining the CBR's underlying claim.
- Creates a credible future platform for reparations-related measures.
- Enables active cash management with a view to generating increased windfall profits.
- Shields the assets from enforcement actions through EU immunity, though the transfer itself raises (surmountable) property-rights issues under Article 17 CFREU and investment treaties.

Disadvantages:

- Requires new EU legislation and depends on the legality of the Article 122 TFEU framework.
- Transfers liability from the private sector to an EU instrumentality, potentially increasing political sensitivity regarding future confiscation or transfer.
- Requires complex governance and supervisory arrangements.

Political landscape: The most comprehensive solution for the EU's needs. Offers the strongest institutional response to Belgium's concerns, provided Member States support the Article 122 approach and a workable indemnity.

OPTION 2: TRANSFER OF CASH ONLY (ASSETS WITHOUT LIABILITIES) TO A SPECIAL PURPOSE VEHICLE OR MECHANISM LIKE THE UKRAINE LOAN COOPERATION MECHANISM[3]

Core principle: (based on the Reparations Loan proposal). Swap cash for a Union debt instrument. Move what will now be the EU's cash into segregated EU accounts controlled by a European Commission mechanism similar to the Ukraine Loan Cooperation Mechanism (***ULCM***), or into a Special Purpose Vehicle (***SPV***) where cash can be managed or used for Ukraine. The EU obtains the cash interest-free, while the CBR's claim remains unchanged. Liability remains with the CSDs. The CBR is repaid in full only when the immobilisation is lifted, which requires, among other conditions, that Russia pays reparations.

Legal mechanism:

- The EU enacts a new Article 122 (1) TFEU regulation (drawing upon the Commission's unimplemented December 2025 Reparations Loan proposals) requiring CSDs to reinvest cash balances from immobilised Russian sovereign assets into a "*Union debt instrument*".[4]
- CSDs swap cash for the Union debt instrument (an AAA zero-coupon debt instrument treated as cash-equivalent on its balance sheet, as per Regulation 3502).
- Cash passes to the Union mechanism/SPV managed by the European Commission with an account at the European Central Bank where feasible.
- CSDs' liabilities to the CBR are unchanged, backed by the Union debt instrument.[5]

Advantages:

- Legally and politically conservative and builds on previously developed legal structures. Unlike the December 2025 Reparations Loan plan, transferring cash would not commit the principal to a loan to Ukraine.
- Preserves strong protection against property-rights challenges.
- Does not materially increase Belgium or Euroclear's litigation exposure.
- Enables active cash management with a view to generating increased windfall profits.
- Does not prohibit lending or financing operations benefiting Ukraine.
- Separates moving the cash from any future use of it to aid Ukraine.

Disadvantages:

- Does not transfer CSDs' liabilities and thus Belgium's concerns raised in 2025 remain.
- If the immobilisation is lifted, Euroclear's ability to repay the CBR rests wholly upon the Union debt instrument.
- The Union debt instrument requires substantial financial guarantees from Member States.
- Does not reduce Belgium's or Euroclear's existing litigation exposure.[6]
- Risk of appearing to postpone the ultimate decision on asset repurposing.

Political landscape: This option leaves Euroclear's liability to the CBR in place, so Member State guarantees back the Union debt instrument. Moving the cash does not increase Belgium's litigation exposure, which already arises from the December 2025 immobilisation. In return for its agreement, Belgium should be offered an indemnity against the risks it now bears. This option may attract support from States favouring a gradual approach or concerned about property-rights litigation. It does not fundamentally alter the assets' strategic position and may be viewed only as an intermediate solution.

OPTION 3: BAD BANK MODEL[7]

Core principle: Use existing bank supervisory powers to move assets and liabilities into a dedicated "bad bank" structure acquired and managed by a coalition of willing states. The vehicle could subsequently invest in reparation-linked financial instruments or support Ukraine directly.

Legal mechanism:

- The ECB's supervisory arm instructs Euroclear (and other banks/CSDs with banking licences that are holding CBR deposits) to split off sanctions-related liabilities and their matching assets into a separate legal entity ("*bad bank*").[8] The legal basis: large sanctions-related balances expose a too-big-to-fail market infrastructure to unacceptable legal, political, financial, and reputational risk, and threaten a eurozone member state's fiscal sustainability. Both risks endanger eurozone financial stability.
- A consortium of willing governments buys the "bad bank" from Euroclear and other institutions.
- The consortium consolidates the bad banks, with a purchase price that includes an indemnity for Euroclear's past legal risk, and reincorporates the bad bank in one of its own jurisdictions.
- The consortium instructs the bad bank to reinvest its cash to generate increased windfall profits.

Advantages:

- Potentially removes both assets and liabilities from Euroclear without new EU legislation, if existing supervisory powers suffice.
- Enables active cash management with a view to generating increased windfall profits.
- Creates the strongest pathway to practically utilise the assets.

Disadvantages:

- Most legally innovative option: ECB competence is not entirely clear and the mechanism may not suit all holders of immobilised CBR assets.
- Likely most vulnerable to property-rights challenges should the assets later be utilised.
- Requires independent action by the ECB.
- Significant uncertainty regarding supervisory powers, governance and implementation.
- May be perceived as circumventing the broader EU consensus.

Political landscape: This option takes a purely regulatory route and needs no new EU legislation. The idea has received little attention so far, yet regulators routinely use this approach to protect financial institutions, so it deserves serious consideration. Its feasibility depends on the scope of the ECB's supervisory competence and on a coalition willing to accept the resulting risks.

THE TABLE BELOW COMPARES THE THREE OPTIONS

	Objectives	Legal issues
Option 1 EU-level Fund: cash and liabilities	**Active management**: Yes **De-risking Euroclear and Belgium**: Yes **Lending to Ukraine**: Requires a separate decision and legal basis.	**Property protections for Russia**: Strong. The claim is preserved on unchanged terms, and the transfer can be framed as an exercise of police powers to protect critical financial infrastructure. Future use of the principal would require a separate legal basis. **Procedure**: Depends on the Court's ruling on Article 122(1) and QMV.
Option 2 SPV: cash only	**Active management**: Yes **De-risking Euroclear and Belgium**: In part (Euroclear still owes the CBR, but EU exercises unfettered rights to use the cash). **Lending to Ukraine**: Requires a separate loan regulation (as proposed in December 2025).	**Property protections for Russia**: Strong (EU guarantee backs the CBR's claim). **Procedure**: Depends on the Court's ruling on Article 122(1) and QMV.
Option 3 Bad bank	**Active management**: Yes **De-risking Euroclear and Belgium**: Yes **Lending to Ukraine**: Requires a consortium decision; no EU act needed.	**Property protections for Russia**: Weaker (cash balances converted into claims against Ukraine). **Procedure**: No QMV required; depends on the reach of ECB supervisory powers.

REFERENCES

[1] For several years, experts, officials, and civil society groups have advocated moving immobilised Russian central bank assets into a collectively held mechanism, fund, trust, or escrow arrangement. Examples include Philip Zelikow, A Fresh Look at the Russian Assets: A Proposal for International Resolution of Sanctioned Accounts (Hoover Institution, 2025); Anton Moiseienko, "Frozen Russian State Assets," Verfassungsblog (April 4, 2025) (Russian central bank assets should be ring-fenced in a separate fund to keep them out of Russia's reach and preserve options for future action); Yuliya Ziskina, Multilateral Asset Transfer: A Proposal for Ensuring Reparations for Ukraine (New Lines Institute, June 2023); Parliamentary Assembly of the Council of Europe, resolution calling for an international trust fund for Russian state assets (April 16, 2024); Hugo Dixon, Lee Buchheit, and Daleep Singh, The Russian Transfer (therussiantransfer.com); International Centre for Ukrainian Victory, The Ukraine Fund: Putting Russia's Sovereign Assets to Work (Sept. 2026); and Mykola Yurlov's work on the international compensation mechanism and its Compensation Fund. Members of this expert group have also been involved in preparing draft legislation in Canada, the US, and a draft European Parliament resolution calling for the assets and liabilities to move to an EU-level fund.

[2] A newly revised proposed draft EU regulation by Hugo Dixon's group can be found here. Its intent is to amend the immobilisation Regulation 2025/2600 to transfer the assets and liabilities and to indemnify financial institutions for any collateral damages due to the transfer. This particular draft does not shield financial institutions from damages due to the December 2025 immobilisation itself but could easily be amended to do so.

[3] See: Jamison Firestone's paper based on Philip Zelikow work, available at link.

[4] This option reuses the mechanism, legal reasoning, and safeguards the Commission developed for the December 2025 Reparations Loan. The proposals were drafted under Articles 122(1) and 212 (for Reg 2502) (under QMV) but not implemented. The proposed legal basis is Article 4(2) of the Commission's proposed Regulation 3501, which effects the transfer of funds out of Euroclear and other CSDs. Articles 23–26 of the Commission's proposed Regulation 3502 create the framework for a "Union Debt Instrument" with member state guarantees to support it.

[5] The mechanisms for managing litigation risks are already worked out: Article 11 of Regulation 833/2014 bars EU enforcement of Russian court judgments; Article 4 of Regulation 2025/2600 (the Immobilisation Regulation) bars enforcement of awards arising from the immobilisation; the 18th sanctions package bars recognition of investor-state dispute settlement outcomes and treats the no-claims clause as public policy within the EU.

[6] The exposure for Belgium and Euroclear is a possible lifting of the December 2025 immobilisation regulation and Russian judgements enforced outside the EU. Exposure does not come from or increase with any future movement of cash. For analysis of existing risks, see the paper by Nesterchuk et al.

[7] See Martin Sandbu, "A 'bad bank' can solve Europe's Russian assets conundrum," Financial Times (Sept. 4, 2025), available here. The proposal relies on powers under the Single Supervisory Mechanism to require a restructuring or divestment of risk-generating activities. Whether the ECB or Belgian supervisor has jurisdiction, and whether these powers extend to a solvent CSD and compulsory liability transfer, requires further legal opinion.

[8] The proposal uses the ECB supervisory authority under the Single Supervisory Mechanism (SSM). Euroclear meets the criteria for direct ECB supervision; nevertheless, the ECB has for now opted to classify it as "less significant", based on unpublished "particular circumstances" as permitted by the SSM Regulation. That leaves the national (Belgian) regulator in the lead, but the ECB can at any time decide to take back control.

INDEPENDENT INTERNATIONAL WORKING GROUP

* This paper was produced by the **independent international working group** advocating for a long-term European strategy with respect to Russia's immobilised sovereign assets. The purpose of the paper is to outline the potential legal mechanisms and facilitate informed decision-making with respect to the Russian Central Bank's (***CBR***) assets at the European level.

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