

22.02.08

4 Deputy M.R. Higgins of the Minister for External Relations and Financial Services regarding sanctions on Russia (OQ.28/2022):

Rather than being reactive to United Kingdom measures to impose sanctions on Russia, in particular the Russian President and the Russian oligarchs who support him, has the Minister considered taking a proactive approach and, if so, will he undertake to introduce a Jersey equivalent of the Magnitsky Act; and if not, why not?

Senator I.J. Gorst (The Minister for External Relations and Financial Services):

Jersey continues to take a proactive approach to the fast and effective implementation of international sanctions and one that properly reflects our constitutional position. We enjoy an excellent record of swiftly implementing all U.N. (United Nations) and U.K. sanctions against countries, regimes or individuals violating international law. The Deputy will of course recall that in 2020 I made an order under the Sanctions and Asset-Freezing (Jersey) Law 2019 that implemented the U.K. Global Human Rights Sanctions Regulations. These regulations are the U.K. equivalent of the Magnitsky Act and enable the U.K. to freeze the assets of individuals and entities linked to gross human rights violations. Any persons designated by the U.K. for an asset freeze under these regulations are automatically and immediately subject to an asset freeze in Jersey.

3.4.1 Deputy M.R. Higgins:

Why is it we have to wait for the U.K. or other states to name people and bring these things in? We constantly talk about Jersey having a place in the world and is able to deal with money laundering and we have a fantastically regulated financial services industry, and yet why do we not have the powers ourselves directly to take action against Russian money, which we know is in the Island, and we have allowed a Russian oligarch to have residential status in the Island? We do we not have the powers ourselves and take unilateral action if we feel it is necessary?

Senator I.J. Gorst:

The Deputy will know from reading the legislation that we are able, in theory, to make our own sanctions but the issue is, of course, the constitutional position. Sanctions cross all of the boundaries; financial services, fighting financial crimes and of course foreign policy. Nor actually do we have the intelligence information here in Jersey, which lead to the development and decisions about making international sanctions, which the U.K. have and the U.N. do. Much better for us to follow the process that we do, which is to work in lockstep with the U.K. and the U.N. to introduce sanctions immediately that others with that capability introduce them, and that is what we do.

3.4.2 Deputy K.F. Morel:

The Minister mentioned the constitutional position and a lack of intelligence information as reasons why we would not take a proactive approach. Is the possibility of retribution, possibly through cyberattacks, that sort of thing, also a reason as to why the Minister feels a proactive approach would perhaps not be appropriate for Jersey?

Senator I.J. Gorst:

No, it is not. We must take and we can and do take the decisions appropriately straightaway. It may not surprise Members to hear that rather than what Deputy Higgins was suggesting, my officials are in conversation right now and have been with U.K. officials so that we are absolutely ready at the

time that there is sufficient and appropriate information to make decisions, which will stand up not only in the United Kingdom but here in the Royal Court, we will make them.

3.4.3 Deputy K.F. Morel:

In his answer to myself and the original questioner the Minister mentions U.K. officials. He has also mentioned the U.N. How about the European Union? If the European Union were to levy sanctions against Russia would Jersey follow those?

Senator I.J. Gorst:

Theoretically the law would allow us to do so, as the Deputy knows, for when we are developing this law he was the chair of the then Scrutiny Panel; so he knows that. However, from a policy perspective, it is much more straightforward because the U.K. is responsible as a matter of international law for our foreign relations to follow the U.K.'s leading and the U.N.'s leading than it is from the E.U. But in theory, we could do.

3.4.4 Senator S.Y. Mézec:

This Minister will recall when he was Chief Minister a controversial decision being made to allow a Russian oligarch to relocate to Jersey through the 2(1)(e) scheme, which quite reasonably would have been thought to have enabled more Russian money to be going through Jersey. Could the Minister assure us that lessons have been learnt in the years since then and such decisions would unlikely be taken like that previous one now?

The Bailiff:

That is not a question about sanctions, is it, Senator?

Senator S.Y. Mézec:

It is about action that would pre-empt specific sanctions, I think.

The Bailiff:

I think that does stretch it a little bit too far. The question is directed to sanctions and I think that is not a question that I can permit, I am afraid.

2.4.5 Deputy G.P. Southern:

I will try another approach. Does the Minister consider that his lack of intelligence would indicate that companies in Jersey do not know their customers?

Senator I.J. Gorst:

I am afraid that once again the Deputy shows his ... I am not sure how to phrase this in a parliamentary manner.

The Bailiff:

Perhaps do not say it at all then.

Senator I.J. Gorst:

I need to respond because the inference is incorrect. The information that comes to an intelligence agency is completely different from the information that the international standard setters require financial services firms to gather in relation to understanding the customer that they are taking on and the business that they are doing. The Deputy will know, hopefully from reading the national risk assessment, that Russia is classified as higher risk and politically exposed persons resident in Russia,

or elsewhere, of Russian nationality are also classed as higher risk and therefore such business is subject to enhanced checks to ensure that the money is from legitimate sources. That is absolutely right and proper. That is completely different from intelligence-service gathered information, as the Deputy well knows.

2.4.6 Deputy M. Tadier:

I suppose the question which may be in order is to ask: if sufficient checks are done at the point of K.Y.C. (know your customer) when deciding whether or not to take Russian money or a Russian client or indeed grant 2(1)(e) status to a Russian oligarch, if sufficient checks and balances are done at that stage should it not be necessary then to use sanctions against the clients and against this money which should necessarily be legitimate?

The Bailiff:

It does relate to whether prior information may or may not remove the need to issue sanctions.

Senator I.J. Gorst:

I think you are being very generous about whether that is really a sanctions-related question but I shall endeavour to answer it nonetheless. Situations change. People do things which they might not have done when they have been in Jersey or in any country in relation to businesses or individuals. What is important is that while there is a higher and enhanced level of due diligence for residents and pets from Russia, and that is absolutely right and proper, it is equally right and proper that they continue to be put under review and supervision by the regulator and the international community continues to consider actions that they might take. We all recognise that the actions that might be taken in regard to sanctions are a result of recent actions on the Ukrainian border. We could not take the action saying that Russia might send troops to the Ukrainian border in advance of them having done so.

2.4.7 The Connétable of St. Brelade:

Would the Minister, in his deliberations on this matter, confirm to Members whether he has read Bill Browder's book *Red Notice*?

The Bailiff:

I have no means of judging whether that relates to sanctions, I am afraid. **[Laughter]**

Senator I.J. Gorst:

Of course that is the gentleman that proposed the Magnitsky Act and supported the United Kingdom Act, and of course supported the order that I made in 2020. It is irrelevant whether I have read his book or not. We have taken actions based on the underlying principles, which he is supporting.

The Connétable of St. Brelade:

I recommend that he does.

The Bailiff:

I will take that as a call for action, which is just about within Standing Orders.

2.4.8 Deputy M.R. Higgins:

The Minister in his answer said that the regulator keeps all these things like K.Y.C. information that is required when people come into the Island. Could he give an example of reviews that have been

done and can he tell me how he knows what assets are held by Russian nationals in the Island? Are they monitoring it on a regular basis? How do they know what they do have and how can they implement sanctions quickly if they have no knowledge?

The Bailiff:

I am sorry, Deputy, that is well away from the introducing of an equivalent of a Magnitsky Act or indeed the imposition of sanctions. In any event, it is to do with what K.Y.C. resolves in a case, and I am afraid I cannot allow that.

Deputy M.R. Higgins:

In that case, Sir, can I rephrase the question?

The Bailiff:

I will give you one chance to rephrase the question, Deputy, yes.

Deputy M.R. Higgins

Thank you. The Minister says we have the powers to impose the sanctions, I would like to know what knowledge he has of the assets of Russian nationals in the Island, including property, and if we do not have a property list then how do we know what they have and how quickly can he impose sanctions if necessary?

The Bailiff:

Well 2 questions: how do you know what Russians have and how quickly can you impose sanctions, it sounds to me?

Senator I.J. Gorst:

Sir, in light of your earlier ruling, I do not think the first question is within Standing Orders. The second question obviously is because he is asking about sanctions. Straightaway we issue the sanction, I sign the sanction order and that is straightaway published and straightaway firms are required to comply with that sanction and the regulator is required to regulate in line with that sanction and any assets that need to be frozen are frozen.

Deputy M.R. Higgins:

With respect, Sir ...

The Bailiff:

No, I am sorry, Deputy. I have got Deputy Southern put his light on but not indicated anything in the chat. But, Deputy, is it a point of order?

Deputy G.P. Southern:

I think is a point of order, Sir. It is for you to decide what is within Standing Orders and not the Minister surely.

The Bailiff:

It is entirely for me to decide and I think the Minister accepts, having done so in the past and answered questions which he has felt I have been too generous about, but it is entirely for the Chair. I took that in the spirit of generosity as a rather unfortunate turn of phrase but not a challenge to

the authority of the Chair. But you are quite right, Deputy, of course it was entirely for me to make that decision.

Deputy G.P. Southern:

But, effectively, he has avoided the question.

The Bailiff:

I did not make a ruling on it and so he has answered the question the way he wants to. If I am called upon to make a ruling on it and if I had been afforded the opportunity to do so I would have agreed with the Minister in this respect that it was outside the range of information.

[10:30]

Deputy M.R. Higgins:

Sir, can I just question that because ...

The Bailiff:

No. Sorry, is this a point you want to make on a point of order, Deputy?

Deputy M.R. Higgins:

Yes, I will.

The Bailiff:

Yes.

Deputy M.R. Higgins:

The point that is being asked of the Minister, and he has not answered it, does he have knowledge of what assets Russian nationals have in the Island, so that when he brings in sanctions he can bring them in quickly and effectively or does he have to search for that information?

The Bailiff:

That is, I am afraid, past your final supplementary; that is an entirely different way of asking a question. That question may well have been in order but I am afraid it is too late, Deputy.