CONTENT

EXECUTIVE SUMMARY 3
SERGEI MAGNITSKY CASE AND ITS LEGACY 3
IMPLEMENTATION OF LAWS INSPIRED BY THE MAGNITSKY ACT 4
CRITERIA FOR ADDING TO THE LISTS 4
  CRITERIA REGARDING HUMAN RIGHTS VIOLATIONS 4
  CRITERIA REGARDING CORRUPTION 5
STATUS OF THE VICTIMS OF CRIME 5
TYPES OF SANCTIONS THAT CAN BE APPLIED 5
  BAN ON ENTRY 5
  ECONOMIC SANCTIONS 6
MAGNITSKY LAWS DESIGNATIONS LISTS 6
INFORMATION REQUIRED IN SUBMISSION FORM 7
ANNEX 1: ESTONIAN MAGNITSKY LIST 8
ANNEX 2: CANADIAN MAGNITSKY LIST 8
EXECUTIVE SUMMARY

This report describes preconditions for establishing and developing international sanctions mechanisms as potential instrument for fighting against impunity of persons who committed serious human rights abuse from all around the world.

The project of Truth Hounds organization aims to target specific perpetrators responsible for human rights violations since 2014 on the territory of Ukraine and petition the U.S. government to review and potentially designate individuals for sanctions under the Global Magnitsky Act.

SERGEI MAGNITSKY CASE AND ITS LEGACY

Sergei Magnitsky, a Russian tax lawyer and accountant, was representing Hermitage Capital Management in a dispute over alleged tax evasion, discovered a $230 million fraud committed by Russian law enforcement officers assigned to the case. In 2008, Magnitsky reported the fraud and facts of corruption to the authorities and was arrested soon after by the same officers he had accused. On November 16, 2009, Sergei Magnitsky was found dead in his prison cell after being tortured and denied medical attention.

A year later, the U.S. Senator Ben Cardin, then Chairman of the Helsinki Commission, introduced the Justice for Sergei Magnitsky Act, requesting the U.S. Secretary of State to publish a list of individuals involved in Sergei’s detention and death, and enabling the government to forbid these individuals entry to the United States and freeze their American assets1. The bill became the basis for adoption the Sergei Magnitsky Rule of Law Accountability Act by the next Congress.

The U.S. Congress approved a law in his name in 2012 allowing the sanctioning a list of Russian officials involved in the Magnitsky case, such as freezing any U.S.-based assets they possessed and banning their entry on the United States territory2. This version covered all individuals who committed extrajudicial killings, torture or other violations of human rights on activists or whistleblowers in Russia. When the Magnitsky Act was passed, it infuriated Moscow, and Russian President Vladimir Putin responded a few months later with signing a law banning all adoptions of Russian children by American citizens3.

With the Global Magnitsky Human Rights Accountability Act the Congress in 2016 expanded the capacities established by the original Magnitsky Act. The global document includes more human rights violators and those who commit significant acts of corruption around the world. President Barack Obama signed it on December 23, 2016. The legislation required the President to issue annually a list of individuals sanctioned under it on Human Rights Day (December 10) or the soonest day thereafter when the full Congress is in session4.

The Global Magnitsky Act is a regulatory act separate from the Magnitsky Act of 2012, which targets persons for certain actions related to the case of Russian lawyer Sergei Magnitsky, though it also

---

1 www.csce.gov/international-impact/legacy-sergei-magnitsky
3 www.rferl.org/a/magnitsky-52-sanctioned-karimova-chaika/28931607.html
4 www.csce.gov/international-impact/legacy-sergei-magnitsky
targets persons for gross violations of internationally recognized human rights in Russia.

A new step was taken when Executive Order 13818 (“Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption”) was issued in December 2017 to implement the provisions of the Global Magnitsky Act. Former President Obama has invoked authorities provided by the International Emergency Economic Powers Act to impose financial sanctions and visa restrictions on persons responsible either for participating in crimes, or for engaging directly or indirectly in human rights abuses or corrupt acts anywhere in the world. Financial sanctions are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, while visa restrictions are delegated to the Secretary of State.

The Global Magnitsky Act differs from the Magnitsky Act of 2012, among other things, by lowering the standard concerning which degree of human rights violation is needed to add a name to the sanction list. Where the Magnitsky Act of 2012 requires “gross human rights violations”, the Global Magnitsky Act requires “serious human rights abuse”. It also differs from the law of 2012 by not following the requirement stipulating that victims of human rights abuse in the context of the law must be individuals specifically working to “expose illegal activity carried out by government officials” or to “obtain, exercise, defend, or promote internationally recognized human rights and freedoms”. In other words, it is not required for victims to be whistleblowers, pursuant to the Global Magnitsky Act. The Magnitsky act of 2012 targets perpetrators of Russian nationality, whereas the Global Magnitsky Act sanctions persons and entities responsible for serious human rights violation globally.

### IMPLEMENTATION OF LAWS INSPIRED BY THE MAGNITSKY ACT

Sergei Magnitsky case and the actions of the U.S. authorities have started a global movement to hold individual perpetrators accountable for their human rights violations and corruption. Lithuania, Canada, the United Kingdom, Estonia and Latvia followed the United States and implemented different versions of the Magnitsky Act in an effort to fight against impunity for perpetrators of human rights violations and acts of corruption from all around the world. List of enactment of different Magnitsky laws:

- United Kingdom: May 23, 2018 (The Sanctions and Anti-Money Laundering Act)
- Latvia: February 8, 2018
- Lithuania: November 9, 2017
- Canada: October 18, 2017 (The Justice for Victims of Corrupt Foreign Officials Act)
- Estonia: December 8, 2016

The individuals and entities that can be targeted by the different versions of the Magnitsky Act cannot be citizens of the state where the law is in force. Differing from other similar laws, Canadian “The Justice for Victims of Corrupt Foreign Officials Act” allows the law to be effective upon both individuals and states.

### CRITERIA FOR ADDING TO THE LISTS

#### CRITERIA REGARDING HUMAN RIGHTS VIOLATIONS

In the United States, the Global Magnitsky Act expanded by Executive Order 13818 allows the President to ban visa entry and block U.S.-based property and interest of foreign individuals and entities that have engaged in extrajudicial killings, torture, or other serious human rights abuse.

---

5 Precedential Definition of Gross Violations of Human Rights: The definition in Section 502B(D) of the Foreign Assistance Act (FAA), has been used as the accepted working standard for what constitutes gross violations of human rights. It states: “the term „gross violations of internationally recognized human rights“ includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.”

6 Extrajudicial killing is included under this standard as is politically-motivated rape.

7 www.treasury.gov/resource-center/sanctions/Programs/Documents/12212017_gломаг_faqs.pdf

8 www.treasury.gov/resource-center/sanctions/Programs/pages/gломаг.aspx

9 This law will not be in force until after the Brexit. Apart from the Sanctions and anti-Money Laundering Act, another piece of legislation, the Proceeds of Crime Act 2002, has had ‘Magnitsky’ elements added to it. The Criminal Finances Act 2017 amended the Proceeds of Crime Act 2002 to expand the definition of unlawful conduct to include gross human rights abuse or violation. After Opposition and Government amendments, the Sanctions and anti-Money Laundering Act 2018 includes gross human rights violation as a reason for imposing sanctions on a person or an entity.


11 www.treasury.gov/resource-center/sanctions/Programs/pages/gломаг.aspx
The American version of the law after the inclusion of the EO 13818 allows a broader scope of behavior that may qualify as actionable than the Canadian version of the text. The latter contains criteria regarding human rights violation for adding a name to the list which are: foreign nationals responsible for gross violations of internationally recognized human rights in a foreign country when authorities in that country are unable or unwilling to conduct a thorough, independent and objective investigation of the violations. It states: “the term „gross violations of internationally recognized human rights” includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.” Baltic states forbid entry to people if “there is information or good reason to believe” that they took part in activities which resulted in the “death or serious damage to health of a person” or their “unfounded conviction for criminal offense on political motives”.

**CRITERIA REGARDING CORRUPTION**

In the United States, the term “corruption” is broadly constructed. The EO stipulates, but does not limit, corruption to include the following acts: “the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or the transfer or the facilitation of the transfer of the proceeds of corruption.”

In Canada, the individual has to be “a foreign public official or an associate of such an official, [be] responsible for or complicit in ordering, controlling or otherwise directing acts of corruption — including bribery, the misappropriation of private or public assets for personal gain, the transfer of the proceeds of corruption to foreign states or any act of corruption related to expropriation, government contracts or the extraction of natural resources — which amount to acts of significant corruption when taking into consideration, among other things, their impact, the amounts involved, the foreign national’s influence or position of authority or the complicity of the government of the foreign state in question in the acts.”

**STATUS OF THE VICTIMS OF CRIME**

Canadian law specifies that “the individual is responsible for, or complicit in, extrajudicial killings, torture or other gross violations of internationally recognized human rights committed against individuals in any foreign state who seek to expose illegal activity carried out by foreign public officials, or to obtain, exercise, defend or promote internationally recognized human rights and freedoms, such as freedom of conscience, religion, thought, belief, opinion, expression, peaceful assembly and association, and the right to a fair trial and democratic elections.” In other words, the victims have to be whistleblowers or affiliated to the defense of human rights.

**TYPES OF SANCTIONS THAT CAN BE APPLIED**

**BAN ON ENTRY**

Through an amendment to the Immigration and Refugee Protection, under division 4 concerning inadmissibility related to human or international rights violations, the Canadian law stipulates that “a permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for … (e) being a person, other than a permanent resident, who is currently the subject of an order or regulation made under section 4 of the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law).”

The Estonian parliament (Riigikogu) adopted in December 2016 amendments to the national Obligation to Leave and Prohibition on Entry Act prohibiting certain Russian high-ranking officials from entering or remaining on the territory. The amendments make possible...
entry ban application for an alien if there is information or reasonable grounds to believe that said alien has participated in or contributed to the violation of human rights in a foreign country which has resulted in the death or serious damage to the health of a person, unfounded conviction of a person for a criminal offense on political motives, or other serious consequences\textsuperscript{16}.

On February 8, 2018, the Parliament of Latvia (Saeima) approved the draft decision “On the proposal to introduce sanctions against the officials connected to the Sergei Magnitsky case” elaborated by the Foreign Affairs Committee of the Saeima. The decision tasked the Cabinet of Ministers with taking appropriate steps to include 49 individuals from Russia in the persona non grata list, banning them from entering the territory of the Republic of Latvia\textsuperscript{17}.

ECONOMIC SANCTIONS

According to the Canadian Law, the property of those whose names appear on the list can be seized, frozen or sequestrated\textsuperscript{18}. The Law provides a list of entities that have to declare such property. If “guilty of an offense punishable on summary conviction the individual is liable to a fine of not more than $25,000 or to imprisonment for a term of not more than one year, or to both”\textsuperscript{19}. This combines with the Special Economic Measures (Russia) Regulations (SOR/2014-58), an annex of the Special Economic Measures Act, which is pre-existent to the Magnitsky Law but appears to be valid in conjunction with it.

MAGNITSKY LAWS DESIGNATIONS LISTS

The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) publishes lists of individuals and entities designated pursuant to the Magnitsky Act and the Global Magnitsky Act Executive on the OFAC’s website: https://sanctionssearch.ofac.treas.gov. Currently, a total of 84 individuals and entities whose property and interests in property therefore are blocked pursuant to the Global Magnitsky Act can be found in the Federal Register and incorporated into OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier [GLOMAG].\textsuperscript{4}

The Magnitsky Act list consists of 49 individuals of Russian nationality that can be found in the OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier [MAGNIT].

Notably, two prominent Russian officials were targeted at the same time by the Treasury Department, but appeared in different lists. On December 20, 2017, the new sanctions blacklisted Ramzan Kadyrov, the Chechen leader and a close ally of Russian President Vladimir Putin. The U.S. Treasury has hit the leader of Chechnya with financial sanctions under the Magnitsky human rights law, accusing him of torture and extrajudicial killings. One of Kadyrov’s political opponents was believed to have been murdered at Kadyrov’s direction, after he made allegations of torture and ill-treatment taking place in Chechnya, including alleged torture which Kadyrov carried out personally.

On the next day, December 21, another prominent Russian, the son of Russia’s prosecutor-general, Artyom Chaika was targeted for sanctions this time under the Global Magnitsky Act. Chaika “leveraged his father’s position and ability to award his subordinates to unfairly win state-owned assets and contracts and put pressure on business competitors”, the Treasury Department said \textsuperscript{20}.

Baltic countries’ lists of designated persons are similar to the Magnitsky Act list and consist of 49 individuals whose names can be checked for example in the Estonian Magnitsky law list on Annex 1.

On November 3, 2017, Canada published three lists of names under the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law) imposing sanctions against 52 individuals from Russian, Venezuela and South Sudan\textsuperscript{21}. The Magnitsky-type sanctions against human rights abusers and corrupt foreign officials are currently prepared on a country-by-country basis as “Cases”: Case 1. South

\textsuperscript{18} http://laws.justice.gc.ca/eng/acts/j-2.3/page-1.htmlOrders and Regulations, 4 (1) (b)
\textsuperscript{19} http://laws.justice.gc.ca/eng/acts/j-2.3/
\textsuperscript{20} https://home.treasury.gov/news/press-releases/sm024
Sudan (3 names); Case 2. Venezuela (19 names); and Case 3. Russia (30 names). The Canadian list is available on Annex 2. Canadian companies should review each list to ensure that they do not engage in prohibited activities with the named individuals.

INFORMATION REQUIRED IN SUBMISSION FORM

The laws inspired by the Magnitsky case provide human rights organizations with a new tool to petition for the imposition of sanctions against human rights abusers from all over the world. The submission template can be downloaded from internet site of Human Rights First, an organization that works with civil society groups internationally to ensure that the United States uses the Global Magnitsky Act as a tool for sanctions to hold the worst human rights abusers accountable. Information, according to that submission form, should be structured following the next sections: Perpetrator Information, Summary of Impact, Case Type and Summary of Evidence.

The Perpetrator Information section consists of detailed identifying information that may be available including organizational chart and as much other background information as available to illustrate the manner in which officials within various entities or departments have authority over the ultimate perpetrators of the human rights abuses or corruption.

The goal of the Summary of Impact section is to convince the U.S. government that it is in the U.S. national interest to sanction a particular individual or entity. As noted in the preface to Executive Order 13818 of the Global Magnitsky Act, the U.S. government should uphold its commitment to promoting human rights and fighting corruption. So strong arguments could include: the way in which sanctioning a particular individual or entity could send a targeted message to a government, government faction or military unit, isolate an individual spoiler, curb illicit finance, limit future human rights abuses within a particular unit, improve a security situation, and/or provide leverage in a diplomatic discussion.

The Case Type section specifies the type of crime and the status of the alleged perpetrator. Finally, the Summary of Evidence section presents a narrative of the facts surrounding the case from multiple sources such as international organizations official reports, NGO’s investigations, media publications and first-hand victim accounts, interview with family members, lawyers’ statements.

22 www.humanrightsfirst.org/sites/default/files/GloMag-Submission-Template.pdf
ANNEX 1

**Estonian Magnitsky List**

1. Alaudinov, Apti Kharonovich (also Alaudinov, Apt Aaronovitch; Alaudinov, Apty), born Oct. 5, 1973
2. Alisov, Igor Borisovich, born Aug. 27, 1953
3. Anichin, Alexey Vasiliyevich (also Anichin, Alexei Vasilievich), born Dec. 1, 1949
4. Antonov, Yevgeni Yuvenalievich, born 1955
5. Bastrykin, Alexander Ivanovich, born Aug. 27, 1953
6. Bogatyr, Letsa (also Bogatyrev, Lecha; Bogatyryov, Lecha), born March 14, 1975
7. Daudov, Magomed Khozhakhmedovich (also Daudov, Magomed Hozhahmedovich; Daudov, Magomed Hozahmedovich), born Feb. 26, 1980
10. Gaus, Alexandra Viktorovna (also Gauss, Alexandra), born March 29, 1975
11. Gordievsky, Stanislav Evgenievich, born Sept. 9, 1977
13. Kadyrov, Ramzan Akhmatovich (also Kadyrow, Ramzan Achmatowisch), born Oct. 5, 1976
16. Khinma, Yelena, born Sept. 11, 1953
17. Khlebnikov, Vyacheslav Georgievich (also Khlebnikov, Viacheslav), born July 9, 1967
18. Klovse, Boris Borisovich, born Nov. 20, 1977
19. Klyuyev, Dmitry Vladislavovich (also Klyuyev, Dmitriy), born Aug. 10, 1967
20. Komn, Dmitri, born May 17, 1977
22. Kratov, Dmitry Borisovich, born July 16, 1964
24. Krivoruchko, Alexei (also Krivoruchko, Alex; Krivoruchko, Alexei), born Aug. 25, 1977
25. Kuznetsov, Artem (also Kuznetsov, Artyom), born Feb. 28, 1975
26. Laplov, Pavlo Vladimirivich, born July 7, 1976
27. Litvinova, Larisa Anatoliievna, born Nov. 18, 1963
29. Lugovoi, Andrei Konstantinovich, born Sept. 19, 1966
31. Mayorova, Yulja (also Mayorova, Yulya), born April 23, 1979
32. Pavlov, Andrei (also Pavlov, Andrey Aleksandrovich; Pavlov Andrei Alexeyevich; Pavlov, Andrey), born Aug. 7, 1977
33. Pechegin, Andrei I., born Sept. 24, 1965
34. Plaksin, Gennady Nikolaevich, born Aug. 31, 1961
35. Podoprigrorov, Sergei G., born Jan. 8, 1974
37. Sheshenya, Alexei Nikolaevich (also Sheshenya, Alexey), born April 16, 1971
38. Silchenko, Oleg F., born June 25, 1977
39. Shashina, Yelena (also Shashina, Elena; Shashina, Helen), born Nov. 5, 1963
40. Stepanov, Vladlen Yurievich, born July 17, 1962
42. Strizhov, Andrei Alexandrovich, born Aug. 1, 1983
43. Sugai, Umar, born 17.04.1966
44. Tagiyev, Fikret (also Tagiev, Fikrret Gabdulla Ogly; Tagiyev, Fikret), born April 3, 1962
45. Tolchinskiy, Dmitri M. (also Tolchinsky, Dmitry), born May 11, 1982
46. Ukhnalyova, Svetlana (also Ukhnalev, Svetlana; Ukhnaleva, Svetlana V.), born March 14, 1973
47. Urzhumtshev, Oleg Vyacheslavovich, born Oct. 22, 1968
48. Vakhaev, Musa (also Vakhayev, Musa), born 1964
49. Vinogradova, Natalya V., born June 16, 1973

ANNEX 2

**Canadian Magnitsky List**

1. Nicolás MADURO MOROS
2. Tareck Zaidan EL AISSAMI MADDAH
3. Gustavo Enrique GÓNZÁLEZ LÓPEZ
4. Adán Coromoto CHÁVEZ FRIAS
5. Luis Ramón REYES REYES
6. Rocco ALBISINNI SERRANO
7. Alejandro Antonio FLEMING CABRERA
8. Rafael Dario RAMÍREZ CARREÑO
9. Carlos Alberto OSORIO ZAMBRANO
10. Luis Alfredo MOTTA DOMÍNGUEZ
11. José Vicente RANGEL ÁVÁLOS
12. Eulogio Antonio DEL PINO DÍAZ
13. Nelson José MERENTES DÍAZ
14. José David CABELLO RONDÓN
15. Rodolfo Clemente MARCO TORRES
16. José Gregorio VIELMA MORA
17. Francisco José RANGEL GÓMEZ
18. Ricardo Antonio MOLINA PEÑALOZA
19. Argenis de Jesús CHÁVEZ FRIAS
20. Aleksey Vasileyevich ANICHIN
21. Alexander Ivanovich BASTRYKIN
22. Aleksey DROGANOV
23. Alexandra Viktorovna GAUS
24. Stanislav Evgenievich GORDIEVSKY
25. Victor Yakovlevich GRIN
26. Pavel KARPOV
27. Yelena KHIMINA
28. Vyacheslav Georgievich KHLEBNIKOV
29. Dmitry Vladislavovich KLYUEV
30. Dmitry KOMINOV
31. Dmitry Borisovich KRATOV
32. Andrei Alexandrovich KRECHETOV
33. Aleksey KRIVORUCHKO
34. Artem KUZNETSOV
35. Larisa Anatoliievna LITVINOVA
36. Oleg LOGUNOV
37. Viktor Aleksandrovich MARKELOV
38. Andrey PECHEGIN
39. Gennady Nikolaevich PLAKSIN
40. Sergei PODOPRIGOROV
41. Ivan Pavlovitch PROKOPENKO
42. Oleg SILCHENKO
43. Yelena STASHINA
44. Olga STEPANOVA
45. Vladlen Yurievich STEPANOVA
46. Fikret TAGIYEV
47. Dmitri TOLCHINSKIY
48. Svetlana UKHNAILOVA
49. Natalya VINOGRADOVA
50. Paul MALONG AWAN
51. Malek Reuben RIAK RENGU
52. Michael MAKUEI LUETH
53. Maung Maung Soe (born in March 1964)