

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

ANDREY LUGVOY AND DMITRI KOVTUN
FREEZING ORDER 2020

Monday 10 February 2020

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

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| † Aiken, Nickie (<i>Cities of London and Westminster</i>)
(Con) | † Grant, Peter (<i>Glenrothes</i>) (SNP) |
| † Anderson, Fleur (<i>Putney</i>) (Lab) | † Jones, Mr Marcus (<i>Nuneaton</i>) (Con) |
| † Ansell, Caroline (<i>Eastbourne</i>) (Con) | † Kinnock, Stephen (<i>Aberavon</i>) (Lab) |
| † Baillie, Siobhan (<i>Stroud</i>) (Con) | † Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op) |
| † Baynes, Simon (<i>Clwyd South</i>) (Con) | Osamor, Kate (<i>Edmonton</i>) (Lab/Co-op) |
| † Brine, Steve (<i>Winchester</i>) (Con) | † Rowley, Lee (<i>North East Derbyshire</i>) (Con) |
| † Bruce, Fiona (<i>Congleton</i>) (Con) | Thomson, Richard (<i>Gordon</i>) (SNP) |
| † Costa, Alberto (<i>South Leicestershire</i>) (Con) | Bradley Albrow, <i>Committee Clerk</i> |
| † Dowd, Peter (<i>Bootle</i>) (Lab) | |
| † Glen, John (<i>Economic Secretary to the Treasury</i>) | † attended the Committee |

First Delegated Legislation Committee

Monday 10 February 2020

[Mr LAURENCE ROBERTSON *in the Chair*]

Andrey Lugovoy and Dmitri Kovtun Freezing Order 2020

4.30 pm

The Economic Secretary to the Treasury (John Glen): I beg to move,

That the Committee has considered the Andrey Lugovoy and Dmitri Kovtun Freezing Order 2020 (S.I. 2020, No. 36).

May I say what a pleasure it is to serve under your chairmanship, Mr Robertson?

The order was laid before the House on 17 January this year and came into force on 19 January. It has the effect of maintaining a freeze of any funds or assets that these two individuals hold in the UK or with any UK-incorporated entities, denying them access to the UK financial system and prohibiting UK persons from making funds available to them.

The order was made because in 2016 an independent inquiry, chaired by Sir Robert Owen, concluded that Mr Alexander Litvinenko was deliberately poisoned in 2006 by Lugovoy and Kovtun through the use of polonium-210. The inquiry also concluded that there was a “strong probability” that Mr Litvinenko, an ex-KGB and ex-FSB officer and critic of the Russian Government, was murdered on the order of the FSB, the Russian domestic security service. The inquiry further concluded that the killing was “probably approved” by the then head of the FSB, Nikolai Patrushev, and the Russian President, Vladimir Putin.

As part of its response to the gravity of those findings, in January 2016 the Treasury imposed an asset freeze on Lugovoy and Kovtun by making a freezing order under the Anti-terrorism, Crime and Security Act 2001. A second order was imposed in January 2018, which expired at the end of 18 January this year. This order, which I commend to the House, was therefore put in place to ensure that there was no gap in the freezing measures that have been enforced against Andrey Lugovoy and Dmitri Kovtun since 2016. Under section 8 of the Act, the duration of a freezing order is limited to two years.

Since 2018, as required by section 7 of the Act, the Treasury has kept the order under review. In May 2019, the Treasury reviewed the facts of the case against the relevant statutory criteria and concluded that the criteria continued to be met in respect of both individuals. Prior to the expiry of the 2018 order, the Treasury reviewed the facts of the case again and decided to make a new order to maintain the asset freeze against these two individuals.

The Treasury believes that making a new order is an appropriate and proportionate measure. The relevant conditions, as set out at section 4 of the Act, are still being met: the Treasury reasonably believes that action constituting a threat to the life or property of one or more nationals of the UK or residents of the UK has been or is likely to be taken by a person or persons resident in a country or territory outside the UK.

The freezing order is one of a limited number of measures available to the UK authorities to act directly against Lugovoy and Kovtun. We continue to believe that the freezing order acts as a deterrent and as a signal that the Government will not tolerate hostile acts on British soil and will take firm steps to defend our national security and the rule of law. The new order maintains a robust approach to Russia, and unity of approach with the US, which also sanctions these two individuals. Continued close co-ordination is a vital part of our joint effort in countering the Russian threat.

Were we not to maintain asset freezes against Lugovoy and Kovtun, we would risk sending a damaging signal that the consequences of murder in the UK are limited and time-bound if someone chooses to evade the UK justice system by remaining overseas. Not to maintain asset freezes against these individuals would likely be perceived as the UK softening its stance towards Russia. Furthermore, it would risk signalling to the Russian state that the UK is looking to normalise relations. That would be contrary to and directly undermining of Her Majesty’s Government’s consistent message that there can be no change in UK-Russia relations until Russia desists from attacks that undermine international treaties and security.

The current bilateral relationship is not the one that we want. We remain open to a different and co-operative relationship, but that depends on Russia stopping its destabilising activity, which threatens the UK and its allies. We engage with Russia on a guarded basis, defending UK national security where necessary, while ensuring that we address the global security issues of the day.

The Government believe that maintaining asset freezes against Lugovoy and Kovtun is an appropriate and proportionate measure, and that not doing so would run counter to the national interest. I hope that colleagues will join me in supporting the order, which I commend to the Committee.

4.35 pm

Peter Dowd (Bootle) (Lab): It is a pleasure to see you in the Chair, Mr Robertson, and to see new Members on both the Government and Opposition Benches. I agree with the vast majority—if not all—of what the Minister said, which is a first. I sat on the Committee two years ago for the Andrey Lugovoy and Dmitri Kovtun Freezing Order 2018, which this order extends.

As the Minister said, the public inquiry found that Lugovoy and Kovtun poisoned Alexander Litvinenko in 2006; the freeze on Lugovoy and Kovtun, under the Anti-terrorism, Crime and Security Act 2001, is appropriate. As the Minister indicated, the freeze prohibits individuals and entities from making funds available to the specified persons—that is only right—and is being extended. In the light of the case, the measure is an appropriate, commensurate and proportionate response in relation to the specified persons. To the best of my knowledge, there have been no material changes since the case.

We want to reaffirm the importance of being as open and as transparent in our dealings in these matters as the Russians are in the other direction. David Anderson, who was appointed to the role of independent reviewer of terrorism legislation under the Data Retention and Investigatory Powers Act 2014, said that the purpose of his June 2015 report was

“to inform the public and political debate on these matters, which at its worst can be polarised, intemperate and characterised by technical misunderstandings”.

His summary went on for several more pages.

The important point is that we have to keep watch on ourselves on this issue. We have several codes of practice on such matters that have been in place for a few years. As I am sure the Minister appreciates, to ensure that we are open and transparent we must review them periodically. He may well wish to take that back to the Department and consider when we might review those codes of practice.

There are, for example, codes of practice for the Proceeds of Crime Act 2002 and the Crime and Security Act 2010. We passed the Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) Order 2018, and there is a code of practice for the Criminal Procedure and Investigations Act 1996. We must keep those codes of practice up to date because they are important to ensuring that we are clear and unambiguous in the way that we deal with such matters. We have to be absolutely open and transparent where other organisations are not.

I am sure that the Minister will fully concur with the Labour party’s sentiments about openness and transparency. Glasnost, I suppose, is the order of the day.

4.39 pm

Peter Grant (Glenrothes) (SNP): I am grateful to be able to make a few comments. I will certainly support the measure, which is appropriate and proportionate, and is likely to be effective. It is always important, when imposing sanctions on anybody, to consider whether they will be effective both in preventing individuals from continuing to operate and in serving as a deterrent to others. The order meets those tests and I will support it—I do not imagine the Committee will divide.

I will make a few comments about the Government’s approach to protecting not only our democratic process but, in some cases, the lives and property of UK citizens, from what is clearly a very real and present threat from some acting on behalf of the Russian state, because there are inconsistencies in the Government’s action.

We do not have an Intelligence and Security Committee just now, and that troubles me. The hon. Member for Bootle said how polarised discussions have been in respect of some serious incidents. In the wake of the Salisbury attack, some people immediately decided that it was all a stitch-up with the British security services, but I was as convinced as I could be that that was not the case. I had a good friend and trusted colleague who was privy to information I could not see; I trusted his judgment when he said to me, “I can’t tell you why, but—believe me—the evidence I have seen convinces me that these people were attacked by agents acting on behalf of the Russian regime.” I was happy to support the Government on that basis.

What if the order was a new proposal just now and there had been suggestions that, in some way, the information coming through in intelligence reports was flawed? We do not have any public accountability mechanism for our security and intelligence services because the committee has not been reconstituted since the elections. I hope the Government will take steps to get that done as quickly as possible. Apart from anything

else, we can then stop the withholding of the report into Russian interference in our democratic processes. We do not know why it was withheld before the election—we know the official reason, but we also know that that reason carries no credibility at all.

We support the Government in taking action against these individuals and, indirectly, against their sponsors—there is not much doubt, and the public inquiry was convinced, that they were acting not on their own but under direction from agents of the Russian state. However, if that same Russian state is being allowed to infiltrate our democratic process or even if the report says there is no evidence to suggest that is happening, we surely have a right to see that sooner rather than later.

While the Government have correctly taken action against these individuals, we should remember that the first person to be the subject of an unexplained wealth order in the United Kingdom was in the country only because their application to live here was fast-tracked for no better reason than she had lots of money to invest in the UK. No one checked where that money had come from at the time.

We must ask ourselves: are we so keen to get money from anywhere invested in the UK economy? Are we protecting ourselves, and are the Government protecting us, enough against people whose money may have come from very dark sources indeed? When people, whose only justification for having their application fast-tracked was that they had a lot of money, can donate part of that lot of money into the UK political party system, we can understand why some who are not part of the political establishment begin to wonder whether we are really protecting ourselves in full from not only the physical threat that these two individuals clearly posed to UK residents but the real threat of the undermining of our democratic processes.

In supporting the Government’s draft order, I ask the Government to confirm that the Intelligence and Security Committee will be reconstituted as quickly as possible, that the report into Russian interference in our democracy will be released as quickly as possible and that they will take steps to close any loopholes that allow people, through the avenue of political donations, to undermine the safeguards we should have to ensure that anyone who donates money to influence our political processes has come by that money lawfully and through proper means.

4.43 pm

Fiona Bruce (Congleton) (Con): I have a question for the Minister. Does the definition of

“financial assets and economic benefits of any kind”

include real property—land, in other words? If so, how is that treated as frozen? For example, many Russians have bought property in London. If they are unable to deal with that property in any way, there may be a risk of deterioration, which will affect the neighbourhood. How does the Treasury deal with the freezing of such assets?

4.44 pm

John Glen: I am grateful to Members from across the Committee for their support for the new order. I will come to address the points made, but we should focus on the key point here. Absent any progress in bringing

[John Glen]

Lugovoy and Kovtun to justice, denying them access to the UK financial system, in combination with the European arrest warrants and the Interpol red notices that remain in place against them, continues to send a clear signal about how fundamentally we disapprove of the actions that they took, which led to Mr Litvinenko's death.

The hon. Member for Bootle, perfectly reasonably and appropriately, made some points about the review of the codes of practice and ensuring that they are up to date with various pieces of legislation. He spoke about the need to bring and ensure continuing clarity and lack of ambiguity, and for the Government to be open and transparent in this area. Those codes are the responsibility of the Home Office, but I am sure they will have noted the points that he made.

The hon. Member for Glenrothes spoke about wider issues involving the Intelligence and Security Committee and its report into Russia. That Committee will be constituted in the very near future; it is not for the Government to tell the Committee when to publish its reports, but it would be good to get these matters into the public domain.

Peter Grant: I accept that the Government cannot tell the Committee when to publish the report, but they did tell the Committee when not to publish the report. Does the Minister understand that that causes considerable concern to a lot of people—and not only on the Opposition side of the House?

John Glen: I think the Government have made their position clear. It will be for the new Committee, once constituted, to determine the timings.

My hon. Friend the Member for Congleton made some points about the mechanics of how the asset freezing process works and the definition of those assets. It would probably be appropriate for me to write to her on that matter, because that is a technical process that I am not privy to this afternoon, and it would be difficult for me to give her satisfaction.

Stephen Kinnock (Aberavon) (Lab): I fully agree with what is being proposed here with regard to Mr Lugovoy and Mr Kovtun, but the hon. Member for Glenrothes also raised the issue of unexplained wealth orders. That is an excellent piece of legislation, but to my knowledge only two unexplained wealth orders have been issued in the several years the legislation has existed. Can the Minister explain why so few have been issued?

My other point is about the Magnitsky amendment to the Sanctions and Anti-Money Laundering Act 2018; it is a very important amendment, yet absolutely no

action has been taken to draw up a list of individuals from Russia who should be sanctioned under the Magnitsky legislation.

John Glen: The hon. Gentleman will be well aware that those matters are broader than what we are discussing this afternoon. I certainly recognise the Government's commitment to legislating in this area, and I know that the matter is under urgent consideration. I cannot offer any more comments on that at this point in time.

The prevalence of the use of unexplained wealth orders is an operational matter that I am not able to comment on. I am aware from previous conversations in the House, possibly with the hon. Gentleman, about the frustration that exists in this area, part of which is about establishing a precedent and a legal basis of confidence for moving forward with those matters, but I am not able to offer him more on that at this point.

Alberto Costa (South Leicestershire) (Con): I have a specific technical point. I would appreciate it if the Minister gave it consideration and perhaps wrote to me afterwards. As a lawyer who has read the schedule referring to legal professional privilege, I think it right that legal professional privilege should remain protected—that is, the privilege under paragraph 4, referring to counsel, barristers or solicitors, or to the confidentiality of communications, as it is known in Scotland. However, there is a little bit of confusion in paragraph 5(2), which adds, cryptically:

“Information and documentation is privileged if the person asked to provide or produce it would be entitled to refuse to do so on grounds of legal professional privilege”.

There is ongoing debate in the courts, both in Scotland and in England and Wales, about who can claim legal professional privilege. I am thinking of those regulated under the Solicitors Regulation Authority and others under the Legal Services Act 2007. Could the Minister write to us to confirm that this only applies to authorised persons in England and Wales—namely solicitors and barristers, and to solicitors and advocates in Scotland?

John Glen: I am certainly very happy to look at that matter and write to my hon. Friend with clarification as soon as possible.

I have responded to the questions as best I can; I recognise that I have not given total satisfaction to everyone, but I hope that the reason and rationale for this order are clear. The Treasury continues to believe that the conditions set out in the Anti-terrorism, Crime and Security Act 2001 for making this order remain satisfied, and I commend the order to the Committee.

Question put and agreed to.

4.50 pm

Committee rose.