



The Ukraine Crisis and Post-War Scenarios *

Summary

*** Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

Washington Arbitration Week commenced with an emphasis on timely discussions, led by co-founder Jose Antonio Rivas, who is also a Georgetown professor and partner at Forex Strategy. The event aims to promote the international rule of law and is accessible for free to both in-person and online participants, thanks to generous sponsors, including Covington and various law firms.

The panel focused on the ongoing crisis in Ukraine, particularly the implications of Russia's invasion and the potential avenues for compensation for damages incurred by Ukrainian entities. Marnie Cheek, the moderator and co-chair of Covington's International Arbitration practice, introduced expert panelists including Luke Kocienski, a Russian-qualified barrister; Shashank Shetty, a forensic expert at PwC; and Gene Bird, an attorney specializing in enforcement of foreign judgments.

Key topics included the types of claims that could be pursued against Russia, the challenges of enforcing those claims, and the potential use of frozen Russian assets for compensation. The discussion highlighted the significant economic damage to Ukraine, estimated at \$411 billion in the first year of the invasion, and the complexities involved in quantifying losses and gathering evidence.

Panelists discussed various legal frameworks for compensation, including the Council of Europe's register of damages and the challenges posed by sovereign immunity under U.S. law. They also addressed the difficulties faced by claimants in navigating the legal landscape, including the potential for Russian companies to file their own claims in response to the war.

Ultimately, there was a consensus that while the path to compensation is fraught with challenges, multiple avenues are being explored simultaneously, providing hope for affected parties. The session concluded with a call for continued dialogue and collaboration in seeking justice and compensation for Ukraine.



Authors

Marney Cheek, Sirshar Qureshi, Luke Wochensky, Gene M. Burd

Topics

Ukraine, Ukraine Crisis, Post-War Scenarios, War, Russia, Human Rights, Human Rights Violations, Cultural Property Destruction, Cultural Property Appropriation

Category

WAW

Full Transcript

00:00:01

The welcome to Washington arbitration

00:00:06

week this this year. We

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have been a little bit

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sharper on starting on time.

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So we're only one minute

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or two minutes after the

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hour. So we're really excited

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about this panel and I

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apologize for it no repeating

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over and over and over

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my name but each each

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panel is that is a

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different Beast. So my name

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is Jose Antonio Rivas and

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I am one of the

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co-founders of Washington arbitration week

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4 years ago. I am

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both Georgetown Professor on investment

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treaty arbitration and also a

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partner of Forex strategy. It'll

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be which has Offices here

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and and in both are

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doing investor-state arbitration commercial arbitration

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and and public international law.

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This is this is one

00:01:01

cost of the panels that

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goes in that comes very

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close to our pursuit of

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ethos of Trying to be

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faithful to the international rule

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of law. And also trying

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to do some some broader

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community and social work in

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terms of of of expanding

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the international rule of law

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as as vastly in and

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broadly as we can so

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as you can see I'm

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as you know, Washington arbitration

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week is is free of

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cost. Not only for those

00:01:48

attending in person but also

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for those that are overseas

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and and are unable to

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to come to Washington d.c.

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So I believe that we

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may have at this stage

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over over perhaps no 80

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people together online and in-person

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which is which is a

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very positive thing and they

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will keep on growing but

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that would not be possible.

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If we did not have

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any sponsors that that allows

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for this venture to be

00:02:19

sustainable. So I will take

00:02:22

some time and and thank

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our sponsors starting with the

00:02:27

or host. Covington and one

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of her or it's called

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chairs amarni cheek and and

00:02:36

also Shireen who has been

00:02:39

a staunch supporters of of

00:02:42

Washington arbitration week and on

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her sister than World arbitration

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update which happened in May

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what would also like to

00:02:51

thank a list of sponsors

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and the and bear with

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me including Norton Rose Fulbright

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Burford a c r e

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h k a a koala

00:03:06

Mooring strategy to ensure Valley

00:03:09



near Wylie White & case

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on an ovary jams Compass

00:03:16

lexecon bakerhostetler Hostetler at Deckard

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Cornerstone research Pillsbury three crowns

00:03:23

Baker Botts SRM, the men's

00:03:28

group are in fall. PWC

00:03:30

Gallagher Steptoe and shoes on

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now, I would like to

00:03:36

turn to the presentation of

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our moderator before that. I'm

00:03:45

going back to the theme

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of Ukraine by sheer luck.

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We we were committed to

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Ukraine weight way before that

00:03:57

the invasion of Ukraine took

00:03:59

place. In fact the Inn

00:04:00

in World arbitration update two

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or three years ago. We

00:04:05

had a first final involving

00:04:07

Ukraine on a comparative analysis

00:04:12

of enforcement of the arbitration

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Awards in places that are

00:04:17

not necessarily the centers or

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at the epicenters of international

00:04:21

arbitration. So I have the

00:04:22

time we had Ukraine a

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how to enforce an award

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in Ukraine how to enforce

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an award, you know their

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places of the End and

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then a few months later

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the invasion happen to Tetra.

00:04:36

So so with this panel

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will be a perhaps the

00:04:41

4th panel where where we

00:04:43

would try to get more

00:04:49

put some light on on

00:04:50

the Ukraine situation. And then

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one of the constant believes

00:04:57



is is that the when

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when The Invasion happens and

00:05:00

when there are so many

00:05:01

events at the light if

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they have the spotlight, but

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but but part of the

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of the video support that

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we can give as a

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forum is to make sure

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that the these shoes the

00:05:18

spotlight is is always maintained

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that regardless of the fact

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that there are many many

00:05:24



other issues in the world

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that are that are of

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concern, of course. Another war

00:05:29

in the Middle East etcetera,

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but this is one issue

00:05:32

that concerns us very much.

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So with that I would

00:05:36

like to To share a

00:05:38

few words about our moderator

00:05:41

Marnie cheek. As I said

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as being a very strong

00:05:45

supporter of Washington arbitration week.

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She coached co-chairs the Covington

00:05:49



International arbitration and dispute practice

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and has advised companies nongovernmental

00:05:54

organizations and government on a

00:05:58

high-stakes international disputes and legal

00:06:00

strategy. For more than 20

00:06:02

years her work draws upon

00:06:05

her expertise in public international

00:06:07

law investment and international trade

00:06:09

she serves as both counsel

00:06:11

and Advocate before numerous International

00:06:14

arbitration tribunals and ports including

00:06:17

the icj. She currently represents

00:06:20

the government of Ukraine in

00:06:21



its landmark cases before the

00:06:23

international court of justice address

00:06:25

to the Russian Federation, including

00:06:28

allegations of genocide under the

00:06:31

convention on the prevention and

00:06:33

Punishment of the crime of

00:06:34

genocide and the in addition.

00:06:37

has also being an investment

00:06:43

treaty an international commercial neighbors

00:06:46

here in the past and

00:06:48

and she has represented party

00:06:49

before the major arbitration Institute.

00:06:52

I want a quickie keep

00:06:55



on going on going, but

00:06:56

I know that that might

00:06:59

made her make her uncomfortable.

00:07:00

So I'll stop there morning.

00:07:03

Thank you for having us

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and and the floor is

00:07:07

yours. Thank you, Jose Antonio

00:07:09

and thank you for all

00:07:11

the hard work that you

00:07:12

put into Washington arbitration week.

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It's a big undertaking, but

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you're always well organized and

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put together a really interesting

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program. So thank you so

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much for all your working

00:07:24

for your kind introduction. So

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we're here today and thank

00:07:28

you for joining us. It's

00:07:30

great to see so many

00:07:30

people in the room and

00:07:32

online. We're here today to

00:07:35

talk about the Ukraine crisis

00:07:37

and post-war scenarios. You probably

00:07:41

heard a little bit of

00:07:42

background about myself. You'll see

00:07:43

that I thought well if

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our topic is Ukraine, I

00:07:46

would take the opportunity to

00:07:48

wear my Ukrainian colors today

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in light of our topic

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and I would just add

00:07:54

the Covington is is thrilled

00:07:56

to be a month again

00:07:57

sponsoring or Washington arbitration week.

00:08:00

So welcome. I'm let me

00:08:02

introduce you to our three

00:08:04

experts who are joining us

00:08:06

after this discussion and I

00:08:09

we hope to have an

00:08:09



interactive discussion. I'm going to

00:08:11

post some questions to our

00:08:13

panelists and then we can

00:08:15

open it up for questions.

00:08:17

Let me actually start with

00:08:19

our panelists shoes online Lou

00:08:22

kocienski or you can see

00:08:24

on the screen is snowed

00:08:27

in in Western New York.

00:08:29

So we appreciate him making

00:08:32

the effort. Thank you Luca

00:08:34

for for joining us in

00:08:36

remotely at the last minute.

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Luke is a special counsel

00:08:40

at Pillsbury Winthrop and he

00:08:43

is a Russian qualified Barrister

00:08:45

who's worked in Russia for

00:08:46

10 years. He represents multinational

00:08:50

companies and cross-border disputes and

00:08:52

he has extensive experience representing

00:08:55

us corporations operating in Eastern

00:08:59

Europe. He's also lead business

00:09:02

and legal and audits including

00:09:06

in the areas of anti-money

00:09:07

laundering and bribery at the

00:09:11

end of the table. We

00:09:12



are joined by a shark

00:09:15

and a sheep who is

00:09:16

our non-lawyer on the piano

00:09:18

you always welcome. Those Sears

00:09:22

dryer is the emea forensic

00:09:25

o l at pricewaterhousecoopers PWC

00:09:27

and leave the PWC dispute

00:09:30

advisory Center of Excellence has

00:09:34

over 30 years of experience

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and has prepared many expert

00:09:38

reports for international arbitration. Send

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tribunals across the globe including

00:09:43

in Central and Eastern Europe

00:09:44



and he's been involved in

00:09:46

commercial cases investor-state cases and

00:09:49

also in a criminal proceedings

00:09:51

but not least. We are

00:09:54

pleased to be joined by

00:09:55

Gene bird with a partner

00:09:57

at fisherbroyles. Gene has over

00:10:00

20 years of experience handling

00:10:02

cases involving enforcement of foreign

00:10:04

judgments and international arbitral Awards

00:10:07

in the US courts asset

00:10:09

recovery. And as well as

00:10:11

cases under the foreign Sovereign

00:10:12



immunities act Gene has represented

00:10:15

clients International arbitration and also

00:10:17

served as an arbitrator himself

00:10:19

and Commercial disputes Gina's fluent

00:10:21

in Russian conversant in Ukrainian.

00:10:24

And this we are just

00:10:25

sharing before the panel. However

00:10:27

is not currently traveling to

00:10:30

Russia. So I thought I

00:10:33

would just provide a little

00:10:34

bit of scene-setting. I conceived

00:10:36

I on the folks in

00:10:37

the audience summer very well.

00:10:40



Steve. On these issues related

00:10:42

to potential post-war compensation for

00:10:47

Ukraine, but others also, I

00:10:49

might be nearer to the

00:10:50

topic and interested in learning

00:10:52

more about it as we

00:10:55

approach the two-year Mark of

00:10:57

Russia's full-scale invasion of Ukraine

00:10:59

which happened in February 2020

00:11:02

to increase the tension is

00:11:05

really being paid as to

00:11:06

how Ukraine will recover and

00:11:09

we'll rebuild really with the

00:11:10



assistance of the rest of

00:11:12

the world following the the

00:11:14

war and while some of

00:11:16

the legal discussion regarding the

00:11:18

war in Ukraine really has

00:11:20

focused on the international humanitarian

00:11:22

aspects of the war Russia

00:11:24

as violations of international treaties,

00:11:26

but just the genocide convention

00:11:28

in the case that was

00:11:30

mentioned earlier today. I want

00:11:32

to focus on private rights

00:11:34

of action for damage caused

00:11:36



by Russia during an invasion

00:11:38

of Ukraine. How does losses

00:11:40

can be Quantified and whether

00:11:42

Russian funds which are currently

00:11:44

Frozen all over the world

00:11:46

can ultimately be used for

00:11:48

compensation for those who have

00:11:50

suffered both losses. I'm just

00:11:53

a very Dynamic topic there

00:11:54

is a lot really happening

00:11:57

to move the discussion forward

00:11:59

every day, and I'm delighted

00:12:01

to be joined by three

00:12:03



folks who have a lot

00:12:04

of experience and expertise to

00:12:07

add to the discussion. I

00:12:11

would just add for the

00:12:12

frame of reference last March

00:12:15

the international financial institutions in

00:12:18

the United Nations has estimated

00:12:21

that Ukraine had already suffered

00:12:23

about 411 billion dollars of

00:12:26

damage. And that was just

00:12:27

in the first year of

00:12:29

the war alone and really

00:12:31

no industry has been spayed.

00:12:32



This relates the housing Transportation

00:12:35

energy agriculture. I'm so you

00:12:38

really are looking at a

00:12:41

big reconstruction effort and a

00:12:43

number cuz I'm Ukrainian and

00:12:46

other Enterprises you have claims

00:12:48

for losses against the Russian

00:12:50

Federation. I'm so mad that

00:12:52

I think will start to

00:12:53

the questions and hopefully have

00:12:55

a robust conversation about how

00:12:56

to move these issues related

00:12:58

to compensation and rebuilding as

00:13:02



we move forward. Absolute, let

00:13:05

me start with you since

00:13:06

you are a remote participant

00:13:08

as I just mentioned obviously

00:13:11

many companies have seen major

00:13:13

losses due to Russia's actions

00:13:16

in Ukraine. I wonder if

00:13:17

you might speak a bit

00:13:18

to what type of claims

00:13:20

are possible to recover those

00:13:22

losses. And then also of

00:13:25

Interest kind of what what

00:13:26

is Russia doing now to

00:13:27



try to defend itself against

00:13:29

these plans. Thank you. And

00:13:32

thank you again. My apologies

00:13:34

for not being able to

00:13:35

be there in person. You

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know, Russia's invasion of Ukraine

00:13:40

has certainly left led to

00:13:42

significant economic repercussions. As you

00:13:46

mentioned that has prompted the

00:13:49

US that you its allies

00:13:51

consider various legal Frameworks for

00:13:54

for compensating those that have

00:13:56

been affected. Obviously the key

00:14:00



question and relation to to

00:14:02

any claim is is weather.

00:14:04

And how you're going to

00:14:05

be able to enforce that

00:14:06

clients. That's where you need

00:14:07

to start one key issue

00:14:09

here, which may not seem

00:14:11

that important first is the

00:14:13

economic sanctions that have been

00:14:15

imposed on Russia Russian individuals

00:14:18

and Russian entities. And why

00:14:20

is not that important to

00:14:21

its sticks, of course impossible

00:14:23



to predict our the when

00:14:25

the war on Ukraine will

00:14:26

be over but at some

00:14:28

point it is possible that

00:14:29

that Russia will be be

00:14:31

looking to remove those sanctions

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and provided that there is

00:14:35

a political wheels at that

00:14:38

point on this side. One

00:14:40

of the criteria for their

00:14:41

removal should be certainly the

00:14:43

use of those blocks in

00:14:44

frozen assets to satisfy economic

00:14:47



claims against Russia, but but

00:14:49

also the ability to enforce

00:14:50

the commercial claims against against

00:14:52

Russian parties. So those two

00:14:55

key questions really remain undecided

00:14:57

know how those claims will

00:14:58

be adjudicated where that the

00:15:01

funding to satisfy them will

00:15:02

come from And I think

00:15:04

they do go hand-in-hand to

00:15:07

the first step. We seen

00:15:08

countries taking taking that they

00:15:11

did that that first step

00:15:12



which is is a process

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to register in claims for

00:15:16

a future time when there

00:15:17

will be a proper communication

00:15:18

process and an understanding of

00:15:20

funding the most prominent nose

00:15:23

is of course the Council

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of Europe's register of Damages,

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which was announced in May

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of this year signed by

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the EU and then going

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over 40 other countries this

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provide the initial framework for

00:15:36



the identification and registration of

00:15:38

claims against Russia by the

00:15:41

individuals companies and governments as

00:15:44

a result of the invasion

00:15:45

of Ukraine. It's important for

00:15:48

anyone with a claim to

00:15:49

begin with this process as

00:15:50

soon as possible, which I'm

00:15:51

sure will be speaking about

00:15:53

later on the panel. There

00:15:56

are some other measures other

00:15:57

countries were in the Canada

00:15:59

has taken the lead in

00:16:01



seizing in pursuing the forfeiture

00:16:02

of Russian assets. Including those

00:16:05

owned by any national Russia

00:16:07

with 22 cases than we

00:16:09

are of them including that

00:16:10

the whole getting a airplane.

00:16:12

That was so probably parked

00:16:14

at Toronto's Pearson International Airport.

00:16:15

If you've ever been there

00:16:17

in the last couple of

00:16:18

years, so that is a

00:16:20

first step The Remains a

00:16:21

lot to be seen and

00:16:23



in several potential options for

00:16:24

the adjudication process the international

00:16:28

commission through tribunal's under the

00:16:30

auspices of the UN, which

00:16:33

is difficult to see now

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duded to the Vita right

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of Russia. But again, it's

00:16:36

so difficult to predict the

00:16:38

future bilateral ad hoc new

00:16:41

should multilateral agreements such as

00:16:44

the date the Iranian States

00:16:47

claims tribunal and probably most

00:16:50

likely single-country administer proceed under

00:16:53



domestic law in Ukraine has

00:16:56

has has probably taken the

00:16:58

lead on this the Supreme

00:16:59

Court Reno rendering a few

00:17:01

judgments declaring the absence of

00:17:04

Precious opportunity and civil civil

00:17:06

court cases, but at that

00:17:08

that's actually quite controversial in

00:17:11

Ukraine. I understand and so

00:17:12

we'll see how that that

00:17:15

that that develops. And of

00:17:17

course, there's the Enforcement issue

00:17:18

as well. But really that

00:17:21



the strategy that that those

00:17:22

who have suffered losses what

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will need to consider various

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jurisdictions monitoring the potentials for

00:17:29

all of the types of

00:17:31

claims that they may be

00:17:31

able to submit as far

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as Russia's concerned, you know,

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it's it's easy for us

00:17:37

to get caught into a

00:17:38

pattern we think about what

00:17:39

it is that we can

00:17:40

do on this side of

00:17:42



the disputes. But Russia is

00:17:44

continuing to look at at

00:17:46

the developments are the very

00:17:48

well aware will take two

00:17:51

are taking or continue to

00:17:52

take measures to counter any

00:17:55

possible claims in the end

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of potential for future claims

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with the examples of what

00:18:01

I was thinking about those

00:18:02

Ukrainian the civil court cases

00:18:03

you can Already see that

00:18:05

there's the attempt to formulate

00:18:07



a position for several years

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down the road there. They're

00:18:09

not attending the court hearings.

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They made statements that there

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are no diplomatic relations between

00:18:14

Ukraine and you can Rush

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since we don't have that

00:18:16

the ability to defend themselves

00:18:18

in those cases and if

00:18:22

we use other things happening

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as it is a bit

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of a framework see that

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the Russian Russians are going

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to continue to adapt so

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they've adapted to sanctions that

00:18:33

the measures that they've taken

00:18:35

to foreign investments in Russia

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have always had an eye

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on bitcoin cases to avoid

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any any sort of potential

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expropriation claims at least to

00:18:45

complicate those cases if you

00:18:48

look at the Several examples

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of the aircraft we all

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know are crap where it

00:18:52

where we're seeing is in

00:18:54



Russia and the Russian government

00:18:56

didn't just re-register them. They

00:18:58

they they took a blind

00:19:01

eye to wear those aircraft

00:19:03

were registered previously so that

00:19:05

the owners can register them.

00:19:07

So cycling is another good

00:19:09

example where they're not actually

00:19:11

taking away the assets but

00:19:13

they're they're permitting the assets

00:19:15

of the shares to be

00:19:16

transferred into Russia to domestic

00:19:18

jurisdiction. So with with all

00:19:20



of the the actions that

00:19:22

are taking over here, it

00:19:23

is important to see what

00:19:24

Russia is doing because they

00:19:25

will ban in my opinion.

00:19:27

They will fight any any

00:19:29

claims in the future. Even

00:19:30

if there is some sort

00:19:32

of agreement down the road.

00:19:35

Do you know Luke before

00:19:38

before I move on if

00:19:39

I could actually asked you

00:19:40

one follow-up question. You're our

00:19:42



only Russian qualified a lawyer

00:19:44
on the piano. And I

00:19:46
think the conventional wisdom would

00:19:48
be that trying to seek

00:19:51
redress from the Russian court

00:19:52
for damages suffered in Ukraine

00:19:55
would not be a path

00:19:59
to success, but I'm wondering

00:20:00
if you agree with that

00:20:01
conventional wisdom or you think

00:20:03
that there may be for

00:20:05
some types of cases some

00:20:06
Avenue a redress within Russia

00:20:09



self. Remember to take the

00:20:12

long the long road to

00:20:14

get to that answer because

00:20:15

well, I think that the

00:20:17

short answer is most likely

00:20:18

not for most cases there

00:20:21

may not actually be a

00:20:22

choice by the non-russian party

00:20:25

could be expected you to

00:20:29

Russian courts have been taken

00:20:30

in my opinion several steps

00:20:32

back in their independence and

00:20:34

professionalism. At the expense of

00:20:36



of non-russian parties in those

00:20:38

types of cases, and I

00:20:41

personally think that there was

00:20:43

a time when you're the

00:20:45

high level of corruption in

00:20:47

Russian courts was was was

00:20:48

was being produced and I

00:20:52

think that there's there's always

00:20:53

been a political component to

00:20:55

to the most high-profile cases,

00:20:57

but you just seeing a

00:21:00

system that was developing that

00:21:01

allowance the majority of cases

00:21:03



who are not as high-profile

00:21:05

to be able to progress

00:21:06

with a with him a

00:21:09

better chance for a positive

00:21:12

outcome for the night but

00:21:13

non-russian party since the invasion

00:21:16

of Ukraine and that the

00:21:18

imposition of sanctions that's that's

00:21:20

seemingly gone by the wayside

00:21:21

and now instead of it

00:21:25

only being high-profile cases. You

00:21:26

see that the type of

00:21:27

the type of decisions being

00:21:29



made with a political angle

00:21:31

that's happening not only in

00:21:33

the the general jurisdiction Court

00:21:34

where you have the That

00:21:36

the cases against artists and

00:21:39

and and protesters in Ava

00:21:41

New Edition is but also

00:21:42

in the state commercial system

00:21:44

the Arbitrage system of courts

00:21:46

in the Constitutional Court, which

00:21:48

is is set up to

00:21:49

to ensure that the government

00:21:51

law is is complying with

00:21:55



the Constitution has been of

00:21:57

little importance for many years

00:21:58

now. So what have you

00:22:01

think there's there's really not

00:22:02

much to look forward to

00:22:03

for an onrushing party that

00:22:04

is looking to seek redress

00:22:05

from the Russian courts. That

00:22:08

being said I said a

00:22:12

lot of the cases the

00:22:12

non-russian parties may not have

00:22:14

much of a choice in

00:22:15

this this of course depends

00:22:17



on how things will develop

00:22:18

but currently in commercial claims

00:22:22

including commercial arbitration, but the

00:22:24

Russian State Commercial arbitration courts

00:22:27

are consistently grabbing jurisdiction of

00:22:30

claims. When is a very

00:22:32

straightforward for an onrushing. Arbitration

00:22:36

Clause this goes back to

00:22:38

2020 before The Invasion. But

00:22:40

but obviously this was asking

00:22:42

about after the 2014 invasion

00:22:44

of Crimea and what the

00:22:47

courts have done. They have

00:22:48



a law that was passed

00:22:49

to say the Russians don't

00:22:50

have equal access to defend

00:22:52

their rights in commercial arbitration

00:22:54

cases to Broad. And so

00:22:57

if they are sanctions or

00:22:58

the dispute is is more

00:23:00

or less thanks and related

00:23:02

which has been very widely

00:23:03

interpreted then then that the

00:23:07

Russian State Commercial courts have

00:23:08

jurisdiction over that dispute. So

00:23:11

you have a number of

00:23:13



situations. Where is a viable

00:23:15

arbitration Clause that Russian parties

00:23:18

have decided to pursue dispute.

00:23:20

I looked at 2 to

00:23:21

stop the arbitration prevent the

00:23:24

enforcement or to try to

00:23:26

get after assets of companies

00:23:27

that are that have Assets

00:23:29

in companies in Russia or

00:23:31

in countries that are signatories

00:23:34

of the Russia could potentially

00:23:37

enforce these cases are moving

00:23:39

forward even though there wasn't

00:23:41



an arbitration Clause. So so

00:23:43

that the Russian government will

00:23:46

continue to try to find

00:23:48

ways to protect the interests

00:23:51

of the Russian parties. And

00:23:53

unfortunately, the Russian courts right

00:23:54

now may be the only

00:23:56

option for for defending your

00:23:59

rights, even though that's not

00:24:01

the desired action option. We'll

00:24:03

see how that goes forward,

00:24:04

but I don't expect that

00:24:05

the Russian government will lie

00:24:09



down and and let a

00:24:11

lot of the claims go

00:24:11

out without some difficulty similar

00:24:13

to what we're seeing now

00:24:14

with the commercial arbitration. Thanks

00:24:17

Luke. Yes, certainly. We had

00:24:29

a case where we were

00:24:30

enforcing arbitration award to Stockholm

00:24:33

Awards and Russia against a

00:24:35

close leave the company of

00:24:37

those clothes with affiliated with

00:24:39

the Russian Moscow musical government,

00:24:42

and we've been successful after

00:24:44



five or six years of

00:24:46

litigation which went up three

00:24:48

times to the Supreme Arbiter

00:24:49

why Arbitrage Court would have

00:24:51

used to be back down

00:24:52

and eventually we're able to

00:24:56

transfer significant sums of money

00:24:59

based on his judgments out

00:25:00

of Russia in the United

00:25:01

States to the client, but

00:25:03

I just don't see how

00:25:05

it would be possible right

00:25:07

now under the present political

00:25:08



leadership in Russia. So unless

00:25:11

be political relationship with change,

00:25:17

I need them soon. I

00:25:19

think it sounds like Russian

00:25:23

courts would not be the

00:25:24

first choice. But what about

00:25:25

the US courts Jean because

00:25:27

a lot of claimants are

00:25:29

going to look for ways

00:25:31

to you to use the

00:25:34

US courts to try to

00:25:35

get redress or enforced judgments

00:25:38

against Russia the foreign sovereign

00:25:45



immunity. Of course, if we

00:25:48

want to bring a somebody

00:25:50

wants to bring a claim

00:25:51

weather is by way of

00:25:52

enforcement or direct claim in

00:25:54

the United States against Russia

00:25:57

against the Russian Sovereign on

00:26:00

one hand. You have a

00:26:01

pot of about 300 300

00:26:03

billion dollars of assets in

00:26:06

the United States have been

00:26:07

frozen by the US government

00:26:09

that these are Central Bank

00:26:10



acid that potentially a good

00:26:13

Target for Recovery. However course

00:26:15

they because of the four

00:26:17

Sovereign immunity. Is there a

00:26:18

very narrow exceptions that would

00:26:22

of any claim and would

00:26:24

be able to use and

00:26:26

the from others and there

00:26:27

are two levels of sovereign

00:26:29

immunity that are too I

00:26:30

would say two prongs to

00:26:31

the summer than you you

00:26:32

want is the sovereign immunity

00:26:35



under international law and the

00:26:37

other one is the sovereign

00:26:39

immunity under the US law

00:26:41

and they would both need

00:26:44

to be taking the account.

00:26:45

If you want to pursue

00:26:47

action under the US law

00:26:49

to three problems three most

00:26:53

likely exceptions that could be

00:26:55

used could be used for

00:26:57

the immunity. That one is

00:26:59

the arbitration exception second is

00:27:02

a waiver exception and the

00:27:03



commercial activity exception unless of

00:27:07

course the expropriation exception of

00:27:08

the Force 1 with could

00:27:10

be used in some cases

00:27:12

all of this exception. Of

00:27:14

course, the arbitration exception would

00:27:16

apply. If you want the

00:27:17

enforcer beat tration the word

00:27:19

if it's in the claim

00:27:21

and the things arbitration awards

00:27:22

that registration exception would be

00:27:25

the most direct way to

00:27:28

to to enforce this award

00:27:31



in the United States under

00:27:33

the foreign Sovereign immunities act

00:27:35

which which is the sole

00:27:37

basis for the New Jersey

00:27:39

section of the of the

00:27:40

foreign states in the United

00:27:41

States, even if you if

00:27:44

we would claim and brings

00:27:45

a claim in State Court.

00:27:48

It would be removed would

00:27:49

be could be removed for

00:27:51

the easy way to move

00:27:51

to the federal court in

00:27:53



the United States Federal Court.

00:27:55

It was interesting a case

00:27:58

was recently decided by the

00:27:59

Supreme Court that he is

00:28:02

around case was a smog

00:28:03

in the summer of this

00:28:05

year where the efforts to

00:28:08

prevent enforcement of their betrayal

00:28:11

in the word were treated

00:28:14

as next. The list of

00:28:17

the possible Nexus to the

00:28:19

US to the United States

00:28:21

for the info for the

00:28:24



application of the RICO law

00:28:25

which is a racketeering influenced

00:28:28

and corrupt organizations. That is

00:28:30

another way to look into

00:28:33

that. So if they're up

00:28:34

for example, if there is

00:28:35

a valid claim and if

00:28:36

there is an arbitration award

00:28:38

than the Judgment that was

00:28:39

obtained based on that the

00:28:42

arbitration award then Rica might

00:28:45

be a way to to

00:28:48

bring additional add additional actors

00:28:51



in this action because Enrique

00:28:54

is very often you have

00:28:55

conspiracy claims. Do you have

00:28:57

computer say allegation and that

00:28:59

something that could be considerate

00:29:02

so it's not on the

00:29:03

Russia but the other parties

00:29:04

or for example Reese Russian

00:29:06

oligarchs with asses they've been

00:29:08

frozen at Wall located somewhere

00:29:10

else outside of the United

00:29:12

States, but that's where you

00:29:15

need to consider. Specific facts

00:29:18



and circumstances, but in order

00:29:20

to really to to lay

00:29:22

out the strategy and the

00:29:24

trail and how to how

00:29:25

to get to the assets

00:29:26

and how to avoid the

00:29:29

just straightforward enough location of

00:29:32

the exception. That's that took

00:29:40

me one other way to

00:29:41

proceed and some Coors apply

00:29:44

the waiver exceptional cases involving

00:29:46

a enforcement of arbitration Awards

00:29:49

or even the judgments that

00:29:53



Against foreign state so that's

00:29:56

something that would need to

00:29:58

be considered the interesting the

00:30:00

last one dangerous thing. I

00:30:02

mentioned about the expropriation exception

00:30:04

tax preparation needs to be

00:30:06

against international law and US

00:30:10

courts. Actually, they adopted the

00:30:12

application off what what is

00:30:15

violation of international law from

00:30:17

the icj decision in the

00:30:19

Germany versus Italy which basically

00:30:22

held that the the gross

00:30:26



violations of the serious violations

00:30:29

of humanitarian law do not

00:30:31

provide exception from from immunity.

00:30:35

So from from that standpoint,

00:30:37

we need to find other

00:30:38

argument additional arguments to see

00:30:40

how that specific house that

00:30:43

specific exception can be applied.

00:30:48

Thanks Gene. So I think

00:30:51

we've mapped out the choosing

00:30:54

a legal pass can be

00:30:55

complicated. But of course, there's

00:30:57

also an additional complication which

00:30:59



is how you really make

00:31:01

your damages play case in

00:31:03

the first place and how

00:31:04

you can figure out how

00:31:05

much compensation he might be

00:31:08

due so that you actually

00:31:09

are a lucky one who

00:31:11

has who has the claim

00:31:12

a specific claim to be

00:31:15

able to try to get

00:31:17

paid or enforced against Russian

00:31:19

assets this year. So I

00:31:21

thought you might help us

00:31:22



going to take a step

00:31:23

back and be thinking about

00:31:25

I mean from a practical

00:31:26

perspective, what are some of

00:31:27

the challenges you see and

00:31:28

what you know, what is

00:31:30

the evidence look like to

00:31:31

support some of these damages

00:31:33

claims that are coming out

00:31:34

of the war in Ukraine.

00:31:37

Thank you, Mommy. I just

00:31:38

would like to take the

00:31:39

opportunity just to say thank

00:31:42



you to the organizers with

00:31:44

what's an arbitration week my

00:31:45

first time here and I'm

00:31:47

very impressed. I have to

00:31:48

say to these make sense

00:31:49

because yesterday I'm very annoyed

00:31:51

with my speakers. I'm working

00:31:53

with this today. So so

00:31:54

well. I'm looking forward to

00:31:56

the rest of the week

00:31:57

as well and thank you

00:31:58

for contempt for us for

00:32:00

hosting us today as well.

00:32:04



So, I mean I'm based

00:32:06
in Prague. I know I

00:32:07
don't look back but I

00:32:08
I am based there and

00:32:09
I I cut her off

00:32:10
at Eastern European at practice

00:32:12
for PWC from a friend's

00:32:14
expect him and dispute perspective

00:32:15
that includes Ukraine. I would

00:32:19
say the Lost just less

00:32:21
than two years. Now. I've

00:32:22
been heavily involved without practicing

00:32:24
you crying. I would say

00:32:26



that they are fully functioning

00:32:29

even saw a sister who

00:32:31

started we have a practice

00:32:33

to 400 partners and staff

00:32:35

are still operating the fully-fledged

00:32:37

helping clients are on the

00:32:39

ground and select offering the

00:32:42

Food Services order excetera. So

00:32:45

I'm very impressed with a

00:32:47

very proud of my team

00:32:48

and they take them over

00:32:52

there and I would say

00:32:53

the definition of resilience. Absolutely.

00:32:57



Soon after we start looking

00:32:59

at what was happening in

00:33:00

the woods continuing one of

00:33:03

the first things we did

00:33:04

was set up as a

00:33:05

specimen sense when you crying

00:33:06

with our forensics team found

00:33:08

primarily because we don't know

00:33:10

what's going to happen and

00:33:11

I'm just totally is like

00:33:13

the still not sure what's

00:33:14

going to happen and I'm

00:33:16

hearing still looks like an

00:33:18



places to eat around the

00:33:19

legal jurisdiction the times of

00:33:20

what might happen in terms

00:33:22

of how even Claims can

00:33:24

be enforced obtains excetera excetera.

00:33:28

So on until 2 or

00:33:34

so so we got in

00:33:36

mind. I mean the one

00:33:38

of the questions is why

00:33:39

why do anything now? Why

00:33:43

why why the damage has

00:33:46

been a lot of things

00:33:46

are just not clear in

00:33:47



terms of process is true.

00:33:50

I mean, but I have

00:33:51

to say from experience preparing

00:33:55

a Quantum claim is not

00:33:58

easy as loss of evidence

00:34:00

documents you need and the

00:34:02

first thing you need to

00:34:03

do is is tender documents

00:34:05

and even with companies not

00:34:08

in the situation. It is

00:34:09

a challenge but here I

00:34:11

think we are tokens of

00:34:14

companies and they want to

00:34:15



be prepared. They want to

00:34:17

be prepared for what happens

00:34:18

next now. We don't know

00:34:19

what it's going to look

00:34:21

like. Is it going to

00:34:21

be true us course is

00:34:23

going through an investment treaty.

00:34:25

Is it going to be

00:34:26

through some things commission? Don't

00:34:28

know. What is it like

00:34:32

to put that they will

00:34:33

they can claim and be

00:34:35

prepared for that in order

00:34:36



to build the building blocks

00:34:38

of a strong claim. You

00:34:39

need to have evidence of

00:34:40

documents. So I am not

00:34:43

going to underestimate that the

00:34:44

level of respective clients of

00:34:52

this is sunshine people to

00:34:54

visit. They do want to

00:34:55

be dealing with quotes and

00:34:56

climbs do what they want

00:34:57

to do it. I want

00:34:58

to do business continued to

00:35:02

be done. So that's very

00:35:07



much at the anticipation and

00:35:08

tons of getting the business

00:35:09

Towing what needs to be

00:35:10

done. And also I mean

00:35:13

all questions that come out,

00:35:15

you know, the reasons why

00:35:16

companies want to do something

00:35:18

now, it could be safest

00:35:20

a subsidiary of a parent

00:35:22

company somewhere else Ukrainian subsidiary.

00:35:23

They wants us to understand

00:35:25

what may be the rebuild

00:35:26

cost of a claim pending

00:35:31



knowing how that will be

00:35:32

done. Be at the Nexus

00:35:42

of where I can claim

00:35:43

and how they can claim

00:35:44

most of the time to

00:35:44

Annapolis Bowl tickets Austin to

00:35:47

pull the documents together, but

00:35:48

something will come out as

00:35:51

you can hear the loss

00:35:52

of hard work going on

00:35:53

in terms of working groups

00:35:55

and registers being set up

00:35:56

in terms of what may

00:35:57



happen, but certainly to be

00:35:59

ready for that point in

00:36:00

time. So maybe just talk

00:36:03

a little bit about the

00:36:04

types of documents that we

00:36:05

met in on. This is

00:36:06

just being practical here. I'm

00:36:08

not going to give you

00:36:08

a full list of everything

00:36:09

that's needed besides the you

00:36:11

know, things like accounting records

00:36:13

and it is a thing

00:36:14

that you need to expect

00:36:15



to manage my account. But

00:36:16

I'm slick out from the

00:36:16

past and companies are still

00:36:18

training these over cuz they

00:36:19

all still spending money on

00:36:20

it. I know it's mostly

00:36:22

but yes, there are things

00:36:23

going on than a different

00:36:24

things like damage to property

00:36:29

in terms of technical construction

00:36:30

cost incurred because of the

00:36:34

invasion and Sons of employee

00:36:35

relocation. How long do they

00:36:39



continue playing the stuff they

00:36:40

keep stuff. I need to

00:36:45

stop because I want to

00:36:46

continue being gone so that

00:36:48

people Christy goes down in

00:36:51

terms of say Alexa to

00:36:52

shut down so that have

00:36:53

generators and how to keep

00:36:55

business is going as they

00:36:56

also have these costs documents

00:36:59

if they need to be

00:37:00

evidence. That's what it once

00:37:02

said. The other one is

00:37:03



up to see what is

00:37:04

the business plan what will

00:37:05

happen next week talk about

00:37:06

scenarios. But in times of

00:37:08

okay, let's assume the war

00:37:10

ends tomorrow. What needs to

00:37:17

be different companies approaching us

00:37:20

but like for example things

00:37:21

like and I've demining cost

00:37:24

for example to the things

00:37:25

that can happen and unsightly

00:37:27

in order to Rio rebuild

00:37:29

cost excetra the other factors

00:37:31



around taking penalties and some

00:37:37

company tonight being damaged as

00:37:39

the other businesses the alarm.

00:37:42

But the noise control of

00:37:43

the business. Is there any

00:37:44

occupied area? So in terms

00:37:46

of what happened to that?

00:37:46

I will you know Sunday

00:37:48

completing a complete list of

00:37:49

events. What they have there

00:37:51

with the body may have

00:37:52

been what the body was

00:37:52

a subsequent does aloe in

00:37:55



there and ultimately it needs

00:37:58

to be considered under what

00:37:59

type of legal Nexus might

00:38:00

happen next. But I think

00:38:02

the show is about Tinker

00:38:03

fast. Thanks are sharp. Can

00:38:08

we have a legal pathway?

00:38:09

We know that there's something

00:38:11

you can do now or

00:38:12

just try to figure out

00:38:13

I'm kind of what your

00:38:14

damages them have been. There's

00:38:17

another issue. I thought it

00:38:18



would make sense to address

00:38:19

which particularly here in Washington

00:38:20

is a is a hot

00:38:23

topic of conversation. And that

00:38:24

is there are these Sovereign

00:38:28

frozen assets that were referred

00:38:30

you earlier and they're hard

00:38:33

to attach even if you

00:38:36

do have an award. I

00:38:38

was wondering Jean. I know

00:38:39

you've been following some of

00:38:40

the legislative developments in the

00:38:42

US Congress related to the

00:38:45



possibility of using those frozen

00:38:47

Sovereign assets to stop but

00:38:48

satisfy claims, and I wonder

00:38:50

if you might speak a

00:38:51

bit to where you see

00:38:52

what kind of legislative process

00:38:55

right now. Sure. Well the

00:38:58

good news is that you

00:38:59

have a uniform support of

00:39:01

Ukraine on both sides of

00:39:03

the spectrum of putting aside.

00:39:06

Samsung some insignificant minority again

00:39:10

on both sides of the

00:39:10



spectrum and administrated. The administration

00:39:14

was also very supportive of

00:39:16

the Ukraine efforts to to

00:39:19

defend itself of Coors and

00:39:21

to the ability to provide

00:39:24

for their construction to the

00:39:26

funding for their construction of

00:39:28

all over the country the

00:39:30

word proposal from the US

00:39:32

government from the final deceleration.

00:39:35

That was mostly focused on

00:39:40

the efforts by the Department

00:39:42

of Justice to obtain funding

00:39:45



from various sources, not necessarily

00:39:48

from the frozen assets, but

00:39:50

also for example From the

00:39:53

Ashes so the kleptocrats would

00:39:55

they call slippers? Kleptocrats are

00:39:57

Ola guards to obtain these

00:40:00

asses so I took from

00:40:03

those that being frozen. Sanctions

00:40:07

and Anto to confiscate these

00:40:10

assets and to use them

00:40:12

for the to put the

00:40:14

in the compensation fund. And

00:40:16

again, this Pond would be

00:40:18



either by way of some

00:40:21

type of a claim conditions

00:40:23

whether it would be a

00:40:24

number of different proposals right

00:40:26

now bloated in the academic

00:40:29

institutions as well as on

00:40:31

the hill regarding what how

00:40:34

this that conversation can be

00:40:36

structured the other than you

00:40:39

didn't discuss is clamping down

00:40:42

on facilitation of sanction evasions

00:40:45

any entity that would be

00:40:48

found to be violating us

00:40:51



sanctions on its assets that

00:40:54

could be used to again

00:40:57

to put it in the

00:40:58

van to compensate compensate the

00:41:02

Ukrainian and EU Korean government

00:41:03

or private actors with whatever.

00:41:06

Again, so impressive development. The

00:41:10

other is why I mentioned

00:41:12

before about the racketeer influenced

00:41:14

and corrupt organization act and

00:41:17

that's was in the side

00:41:18

of civil claims. But now

00:41:20

the United States government also

00:41:21



wants to include it was

00:41:24

considering including violation of sanctions.

00:41:27

As one of the predicate

00:41:29

act under the Rita law

00:41:31

that would allow it in

00:41:34

again in some clear this

00:41:35

point whether it would also

00:41:37

allow private cause of action

00:41:38

or only from the side

00:41:43

of the government, but that

00:41:45

would be another possibility to

00:41:47

confiscate assets. Eventually that would

00:41:49

be used for Ukraine. There

00:41:53



are some other proposal from

00:41:54

the US administration of from

00:41:58

the Senate and there is

00:41:59

also a joint Bill the

00:42:02

Senate and the house bill

00:42:03

as you know, many of

00:42:05

us. I'm sure you all

00:42:07

know but for the bill

00:42:08

has to pass both Chambers

00:42:09

the can the Senate and

00:42:12

House in order to become

00:42:14

log. So there is a

00:42:15

joint proposal called the repo

00:42:16



a car that was introduced

00:42:20

by both parties votes in

00:42:24

the Senate and the house

00:42:26

or to join bill which

00:42:27

which Moves In Parallel last

00:42:31

time. I looked at it

00:42:32

was no committee hearings on

00:42:34

this bill that was introduced

00:42:35

to have some preliminary can

00:42:37

do it was read twice,

00:42:38

but the doesn't look like

00:42:42

there is a very active

00:42:43

woman from this bill probably

00:42:44



people in the hill at

00:42:47

busy with some other issues

00:42:48

would be considered more important,

00:42:50

but I was a last

00:42:52

that's important step forward. Do

00:42:54

you have this bill introduced

00:42:55

and considered and covid-19, Florida

00:43:04

to confiscate trash? Sovereign assets

00:43:07

that have been frozen in

00:43:09

the United States and transfer

00:43:10

them to assist Ukraine the

00:43:11

construction effort again, there is

00:43:14

very little details of how

00:43:16



this assets will be used

00:43:18

where they will be transferred

00:43:20

Department of State will probably

00:43:21

play a role in that.

00:43:23

It's it's unclear at this

00:43:26

point. I was trying to

00:43:28

see if there are any

00:43:29

developments as far as to

00:43:31

provide additional exceptions to the

00:43:35

foreign Sovereign immunities. I couldn't

00:43:38

find any direct for puzzle

00:43:40

on that maybe in the

00:43:42

process of scholarly deliberations on

00:43:46



this type of legislation. That

00:43:48

would be some amendments that

00:43:49

would allow private cause of

00:43:51

action but so far most

00:43:54

of the efforts on the

00:43:56

Congressional side of focused on

00:43:59

providing the US government or

00:44:01

some type of international bodies

00:44:04

or tribunals Open relations with

00:44:07

funding to create some types

00:44:10

of the tribunal some some

00:44:12

like will you refer to

00:44:13

your andreyev? You know, it

00:44:15



was some type of compensation

00:44:16

commission that would a consider

00:44:19

this clean switch bring back

00:44:22

this private client, but the

00:44:24

question is which for him

00:44:25

this glands will be brought

00:44:26

with it. They will be

00:44:27

directly within the US courts

00:44:29

or through the commission that

00:44:32

through the claim Claims Commission

00:44:34

that would have enough sufficient

00:44:36

funding to provide compensation. Thanks,

00:44:40

Tina. Ukraine is also undertaking

00:44:44



legislation to be able to

00:44:46

strip Russian us at the

00:44:47

stubborn, but I decided last

00:44:55

year decided in Ukraine wear

00:44:58

according to the Supreme Court

00:45:00

the cranium Supreme Court they

00:45:03

held held that there is

00:45:05

no stopping. YouTube for violations

00:45:09

of international law, however, we

00:45:12

know Ukraine is not a

00:45:13

commonwealth country. So this one

00:45:15

poor decision is not necessarily

00:45:16

does not create a law

00:45:17



in your crane are and

00:45:20

that's why there is a

00:45:21

legislative action that is required

00:45:23

on Ukrainian side and indeed

00:45:25

there is a load in

00:45:27

deliberate. It's in the in

00:45:28

the Rada that would allow

00:45:32

stripping Russia from sovereign immunity

00:45:34

in connection with any claims

00:45:36

relating to the Russian invasion

00:45:38

and got some aggression aggression

00:45:39

the Ukraine. Well one issue

00:45:43

that I'm I'm personally involved

00:45:45



one issue, which is what

00:45:48

type of notice is required

00:45:49

and how the how this

00:45:52

notice can be made out

00:45:54

of the Russia can be

00:45:55

served in this type of

00:45:57

claims and because there were

00:46:00

10 number of claimants in

00:46:03

Ukrainian course to serve Russia.

00:46:06

Required by our Ukrainian legislation

00:46:09

in cases involving a foreign

00:46:11

States and chords Russia and

00:46:14

many cases. They simply ignored

00:46:15



this and some cases they

00:46:17

simply return the court papers.

00:46:20

So I mean you can

00:46:22

imagine in the in the

00:46:25

current political situation that the

00:46:28

Ministry of Foreign Affairs would

00:46:29

somehow accept service all the

00:46:31

claim against Russia in Ukrainian

00:46:33

court against the Russian Federation.

00:46:35

So that's highly unlikely so

00:46:38

needs to be some other

00:46:40

mechanism to allow service that

00:46:42

would be on one hand

00:46:44



legal in the Ukrainian law

00:46:46

and then on the other

00:46:47

hand recognized by the country

00:46:51

for example it by the

00:46:52

United States if the Judgment

00:46:55

that is based in such

00:46:56

claims brought against Russia United

00:46:58

States to the Damages expects

00:47:07

in the complexities there, you

00:47:09

know, I was thinking about

00:47:10

what you were saying about

00:47:12

how like the different types

00:47:13

of documentary evidence. You need

00:47:17



to be able to build

00:47:18

a case the fact that

00:47:19

you have people on the

00:47:20

ground the fact that Ukrainian

00:47:21

companies are engaging with you,

00:47:23

but do you think just

00:47:25

putting your expert hat on

00:47:27

that? You're really going to

00:47:31

be able to get all

00:47:31

the evidence that you would

00:47:33

need say regarding, you know

00:47:35

losses in temporarily occupied territories,

00:47:41

or do you see that

00:47:42



whether this a compensation commission

00:47:46

or arbitrary individual arbitrations that

00:47:49

are brought do you think

00:47:50

that there's going to need

00:47:51

to be some kind of

00:47:53

flexibility on the tribunals behalf

00:47:55

and look at these damages

00:47:56

issues because just of the

00:47:59

complexities and in some cases

00:48:00

maybe inability of gathering evidence.

00:48:03

I'm just wondering if you

00:48:04

your kind of scene that

00:48:05

down the road or I

00:48:06



think I actually know it

00:48:06

should play out the way

00:48:07

it has the mother cases

00:48:09

because I cannot expect to

00:48:16

the classic situation. So no

00:48:19

Claims Commission may be a

00:48:21

classic situation of a tribunal

00:48:22

it. What did I need?

00:48:24

So I filled my job

00:48:27

is next to its prime

00:48:28

them with as much evidence

00:48:29

is available practically mean appreciate

00:48:33

you may not have everything

00:48:34



but like for example if

00:48:37

we were assessing a lostprophets

00:48:39

assessment you looking to assess

00:48:41

it as a everyone knows

00:48:43

you have a butt. In

00:48:44

our account of factual. And

00:48:47

then you deduct that from

00:48:49

a nausea symptoms of what

00:48:50

is happening now. From where?

00:48:54

Does it stop from the

00:48:56

beginning of the wool does

00:48:58

it stop from when the

00:48:59

business was somehow interfere with

00:49:01



enzymes are from a perspective.

00:49:04

So there's a few questions

00:49:07

in that and what I

00:49:08

think what we can do

00:49:09

as experts is maybe run

00:49:11

those scenarios depending on which

00:49:14

way it's going unless we

00:49:15

get clear Direction. So that's

00:49:17

maybe one way we can

00:49:18

help so again saying, okay,

00:49:20

let's assume that being a

00:49:21

warrior to helping to protect

00:49:23

sounds reasonable and support the

00:49:32



Camry. If it's in relation

00:49:36

to Masala damaged, okay, how

00:49:38

did that affect the damage?

00:49:40

Let me see compensated. So

00:49:43

that's what I want a

00:49:44

difficult as much as we

00:49:47

can do and then the

00:49:48

other side of providing sanara's

00:49:49

is in the as it's

00:49:51

an all right, which is

00:49:51

what is actually happening. What

00:49:54

at what point in time

00:49:55

all we ever a point

00:49:56



in time with a business.

00:49:57

Is she moving on and

00:49:58

everything is done. Well that's

00:50:00

easier said it's the cost

00:50:02

to get to that point

00:50:03

and then for the business

00:50:04

to to move forward and

00:50:06

I'm assuming if it's in

00:50:08

the same state with her

00:50:09

friends, so that's easy or

00:50:11

is it done before hands

00:50:12

in which case we'll have

00:50:14

a project again having to

00:50:16



protect will what is the

00:50:17

as is you know, how

00:50:18

long? If the company was

00:50:21

to put on alternative business

00:50:23

plan into place for personal

00:50:25

renters what my happening then

00:50:26

we can discuss trying to

00:50:27

say is that I will

00:50:28

the bull finish 1 years

00:50:30

12 years and three years

00:50:31

and then we get from

00:50:32

that again. It just corned

00:50:34

beef. I think what we

00:50:35



can do for it as

00:50:36

experts or the tribunal has

00:50:38

put us down and then

00:50:41

the tribunal will play with

00:50:42

it again. I'm looking at

00:50:43

a lot of uncertainty of

00:50:44

the my actions maybe things

00:50:46

will get Clara looking looking

00:50:52

at that sort of thing.

00:50:54

It was a long question.

00:50:57

If you don't mind, we

00:51:01

see some cases right now.

00:51:02

We're there a commercial disputes

00:51:04



without involving Force measure that

00:51:07

is caused by the events

00:51:11

in Ukraine and her parties

00:51:15

from different countries from different

00:51:18

jurisdictions. Some of them maybe

00:51:20

Ukrainian some of them maybe

00:51:21

not how would you assess

00:51:24

the situation from the damages

00:51:27

perspective? So maybe just clarify

00:51:32

the situation so spoiled and

00:51:38

some of them even if

00:51:40

it's not the occupied Zone

00:51:43

the ability of the parties

00:51:47



to continue with this construction

00:51:48

project is impeded because of

00:51:53

the Russian invasion. So how

00:51:55

would you assess the damages

00:51:57

are in that particular scene

00:51:59

and I will do that

00:52:00

be a conventional type of

00:52:03

analysis has been impacted by

00:52:07

the by the force majority.

00:52:10

But are you would consider

00:52:12

the fact that there is

00:52:14

an invasion in in in

00:52:18

in Computing this type of

00:52:20



her potential recovery by any

00:52:23

of the parties? Yeah, I'm

00:52:26

going to starting point for

00:52:27

me is always glory and

00:52:28

something wrong with the instructions.

00:52:29

We making three of you

00:52:31

asking us to see my

00:52:32

the way out that way.

00:52:33

So if the Assumption as

00:52:36

if the instruction you giving

00:52:37

me is by Russia that

00:52:40

caused the situation now, what

00:52:41

is the lost another lost

00:52:43



his to whom and whose

00:52:44

cause who's who's who's in

00:52:45

cut the Lost? Cuz I

00:52:46

seen the two parties to

00:52:48

the contract. They've been cut

00:52:49

the lost. So I suppose

00:52:50

that's how we would have

00:52:52

said it if that's the

00:52:52

instruction that you're giving us

00:52:54

you're saying is he meeting

00:52:55

with mature caused by Russian

00:52:57

a third party to a

00:52:58

contract will be taking a

00:53:00



claim under that contract I

00:53:03

guess restaurants you Jean I

00:53:06

think you're going to have

00:53:07

to enter into a contract

00:53:08

with your shower to get

00:53:10

more details available so we

00:53:13

can let me just ask

00:53:17

one more question of of

00:53:19

Luke's eye Lucas left you

00:53:21

and your snow and then

00:53:25

we'll open it up for

00:53:26

questions. So I have questions

00:53:28

they can I come for

00:53:30



it to the to the

00:53:32

microphones. But just to ask

00:53:33

one last question moved our

00:53:35

entire discussion pretty much has

00:53:37

been framed as Russia being

00:53:39

responsible for your loss and

00:53:42

damage and how the various

00:53:44

we go past available the

00:53:46

challenges involved both on the

00:53:48

quantum side and then to

00:53:50

the legal and sovereign immunity

00:53:52

side, but I was wondering

00:53:55

just in terms of commercial

00:53:57



disputes we're all so we

00:53:59

can Russian parties may have

00:54:01

been affected by the by

00:54:04

the war as well. Do

00:54:06

you see do you think

00:54:08

Russians will also be filing

00:54:10

kind of commercial claims and

00:54:12

how are those being handled

00:54:15

and in terms of cases

00:54:17

where Russia's Russian companies are

00:54:19

defending those commercial claims. You

00:54:22

know how those types of

00:54:23

cases are are playing out.

00:54:26



Yeah, I mean the answer

00:54:28
is yes. I do expect

00:54:30
that. It is difficult to

00:54:32
predict where where this is

00:54:34
all going to end. But

00:54:37
the in the environment right

00:54:38
now is just one in

00:54:39
which there are many factors

00:54:43
that point to Russian companies

00:54:45
continuing to be aggressive as

00:54:47
soon as there's an opening

00:54:48
that potentially they understand that

00:54:50
there might be the ability

00:54:52



to enforce a Broad Ripple

00:54:56

of the aggressiveness. You have

00:54:57

a lot of Russians right

00:54:57

now who are challenging sanctions

00:54:59

designations and in cases that

00:55:01

are have not been very

00:55:03

successful on on their side.

00:55:04

So there's a lot surrounding.

00:55:07

Let me see a war

00:55:08

is it is difficult situation.

00:55:10

You put your your yourselves

00:55:14

in the position of the

00:55:15

Russians there, the company's or

00:55:18



are not doing well economically

00:55:19

that the Russian economy in

00:55:21

the matter what the Russian

00:55:22

government has said has been

00:55:23

hit hard by by the

00:55:24

war yet. They're still on.

00:55:26

A lot of assets and

00:55:28

a lot of funds to

00:55:30

go to go after foreign

00:55:31

companies and there is an

00:55:33

understanding that if sanctions have

00:55:35

hit the mega that that

00:55:36

was unfair just two parties.

00:55:39



They're still all the garbage

00:55:40

that have tried to distance

00:55:42

themselves from the Kremlin door

00:55:43

for from Russia who are

00:55:46

still tied up in sanctions.

00:55:47

And then course you have

00:55:50

a lot of very experienced

00:55:51

arbitration specialist in Russia who

00:55:53

used to work for foreign

00:55:54

companies, but but still have

00:55:55

a lot of experience working

00:55:56

in commercial commercial electrician. So

00:56:00

no matter how this conflict

00:56:02



and it seems to me

00:56:05

that we're right on the

00:56:06

precipice of a whole number

00:56:08

of disputes are going to

00:56:09

be coming from from both

00:56:11

sides similar to what we

00:56:13

saw through 2014. Those are

00:56:16

be contractual like like she

00:56:18

was talking with the force

00:56:19

majeure not only in Ukraine,

00:56:21

but also also in Russia,

00:56:23

Ukraine and Russia and economies

00:56:26

are so connected there is

00:56:28



bound to be supply chain

00:56:29

disputes. Look at the the

00:56:31

nuclear industry and you have

00:56:33

if you have nuclear power

00:56:34

plants where the matches getting

00:56:36

is from from real Sodom,

00:56:37

but but all of the

00:56:38

turbine blades and everything else

00:56:41

that needs to be developed

00:56:42

as IP rights that are

00:56:43

held by Russians, there's contracts

00:56:46

to 222 supply parts that

00:56:48

are held by Russians and

00:56:49



we can expect those are

00:56:51

all going to be canceled

00:56:52

in the future. I'm so

00:56:54

the number of contractual disputes

00:56:56

investment claims so investors from

00:56:59

outside of Russia who feel

00:57:00

that they're their assets have

00:57:01

been expropriated, but also rushing

00:57:02

to feel that it's been

00:57:04

a short duration by the

00:57:05

West pending on what happens

00:57:07

based on this conversation insurance

00:57:10

claims plenty of insurance disputes

00:57:13



coming forward. So so Yes,

00:57:16

we can I think similarly

00:57:18

right now. So it's a

00:57:19

really say we're in the

00:57:20

thick of it. But at

00:57:21

some point we will get

00:57:23

to that point where where

00:57:24

where where companies are going

00:57:27

to start getting more aggressive

00:57:27

then comes the question of

00:57:29

where are the assets again

00:57:30

and then who has access

00:57:31

to so I think what's

00:57:35



important to to look at

00:57:36

now is what is going

00:57:37

to be the Russian government's

00:57:38

role in in those disputes.

00:57:39

Are they going to continue

00:57:41

to try to take measures

00:57:42

to protect their companies moving

00:57:44

forward or do they have

00:57:45

other different problems that that

00:57:47

there that they're dealing with

00:57:49

this going to be a

00:57:50

jurisdictional challenges that they may

00:57:52

be able to help out

00:57:53



with the applicability of sanctions

00:57:55

that they're going to challenge

00:57:56

force majeure on the Russian

00:57:57

launch is something that is

00:57:59

disputed and then of course,

00:58:00

you know this opportunity claim

00:58:02

for any of the state-owned

00:58:03

Enterprises, which we know the

00:58:05

Russian economy are this is

00:58:06

quite a large percentage. So

00:58:08

it's it's it seems like

00:58:10

we are in I want

00:58:11

to say the Calm before

00:58:11



the storm with commercial disputes,

00:58:13
but we are on the

00:58:15
precipice. A very active time

00:58:17
and I wish I could

00:58:18
say one that was was

00:58:19
going to really kick off

00:58:20
their things going on now,

00:58:22
but I don't expect the

00:58:25
aggression to end with with

00:58:27
any sort of solution to

00:58:28
the to the war. One

01:00:05
of them others than that

01:00:08
pursued claims against their respect.

01:00:18



every year and every year

01:00:28

there is a very high

01:00:30

interest of this because Any

01:00:46

other questions? Okay. If not,

01:00:50

I had actually asked a

01:00:52

question to just drop off

01:00:53

it seems like we talked

01:00:56

a lot today about and

01:01:00

interested to hear what your

01:01:03

predictions are for all this

01:01:05

all along all the mother

01:01:07

ultimately either through private action

01:01:10

or otherwise you think that

01:01:11



there will be some form

01:01:13

of compensation for the Z

01:01:16

printing Enterprises that have suffered

01:01:18

considerable losses. are shotgun parts

01:01:36

Spectrum That's what is around

01:01:59

the process. nice and snug

01:02:41

as a I'm just guessing

01:02:44

more than anything like turn

01:02:51

believer that it will be

01:02:52

a compensation. It's hard to

01:02:55

figure out hard to understand

01:02:58

what form and shape is

01:02:59

going to take a look

01:03:03



at the Historical examples some

01:03:05

things to Mission few years

01:03:09

ago that events from the

01:03:16

time of world war. So

01:03:18

it's very slow process. So

01:03:21

worst addicting the damage, said

01:03:26

it as soon as possible.

01:03:27

So at least in the

01:03:32

beginning of allies to provide

01:03:41

some form of compensation and

01:03:45

Probably some type of a

01:03:47

clean condition for which for

01:03:54

the individual losses as business.

01:03:58



If you look at the

01:04:00

allergic type of company is

01:04:02

larger companies International corporations that

01:04:04

they made they met on

01:04:06

the table or some other

01:04:14

type of prettiest, but eventually

01:04:17

made a long long time

01:04:20

until this And you throw

01:04:25

in my two cents to

01:04:26

do we have any here

01:04:28

as there know who can

01:04:36

correctly. Absolutely. Absolutely. There is

01:04:47

a international or there is

01:04:50



a there's a Ven, I

01:04:55

think there's an emergency arises.

01:05:00

The president of the United

01:05:02

States sanctions is a very

01:05:06

old to they've been used

01:05:08

in a international United States

01:05:13

is not absolutely sure that

01:05:22

there is a basis in

01:05:23

the US war and international

01:05:25

War. Actions is that they

01:05:33

don't confiscated these breathe. They

01:05:38

don't change that. They don't

01:05:40

transfer title that don't they

01:05:43



don't allow anyone knew they

01:05:46

had a claim damages and

01:05:48

say he's so you have

01:05:59

\$300 Rosenthal Russian Sovereign Assets

01:06:07

in the United States. That

01:06:09

doesn't mean that they don't

01:06:10

get along anymore. Let me

01:06:13

a bar near here look

01:06:17

but only on your computer

01:06:18

if we have a connection

01:06:22

here, if you will indulge

01:06:25

me as moderator. I'm going

01:06:27

to decide that our it

01:06:29



challenge. Is there such that

01:06:30

I'm going to steal your

01:06:31

last words so, okay cool.

01:06:33

I would say just going

01:06:36

back to the spinal question.

01:06:38

But I think the beauty

01:06:40

of the International System. Is

01:06:41

there as many many paths

01:06:43

to pursue and all of

01:06:45

these Tabs are really being

01:06:46

pursued at once. So larger

01:06:49

corporations that are capable of

01:06:51

Green Plains now or going

01:06:52



to bring times now, they're

01:06:53

not going to wait on

01:06:55

the registry of damage is

01:06:56

prioritizing individual claims. So that

01:06:59

those that you know smaller

01:07:00

claims feel like they also

01:07:01

have a place to go

01:07:02

and I think all of

01:07:04

these things are going to

01:07:05

continue to move forward at

01:07:06

1 and ultimately will create

01:07:08

kind of a complementary web.

01:07:12

Demands for a compensation through

01:07:16



rules-based mechanisms and due process

01:07:20

based mechanism that ultimately on

01:07:22

Wheels Forest compensation for the

01:07:25

widest possible range of a

01:07:27

doctor. So in that regard,

01:07:29

I guess I'm an optimist

01:07:31

and I have faith in

01:07:31

the system that it's providing

01:07:33

a multiple Pathways to try

01:07:36

to solve this complex issue.

01:07:38

I'm so mad that please

01:07:40

thank our panelists Luke from

01:07:42

the snow as well as

01:07:44



their shower from frogs and

01:07:46

Jean from raised by machine

01:08:06

and we are seated you

01:08:07

back for 14 minutes. I

01:08:23

don't know what the issue

01:08:24

is. The welcome to Washington

00:00:05

arbitration week this this year.

00:00:08

We have been a little

00:00:09

bit sharper on starting on

00:00:10

time. So we're only one

00:00:12

minute or two minutes after

00:00:14

the hour. So we're really

00:00:17

excited about this panel and

00:00:19



I apologize for it no

00:00:22

repeating over and over and

00:00:23

over my name but each

00:00:25

each panel is that is

00:00:27

a different Beast. So my

00:00:29

name is Jose Antonio Rivas

00:00:31

and I am one of

00:00:32

the co-founders of Washington arbitration

00:00:36

week 4 years ago. I

00:00:38

am both Georgetown Professor on

00:00:44

investment treaty arbitration and also

00:00:47

a partner of Forex strategy.

00:00:49

It'll be which has Offices

00:00:50



here and and in both

00:00:51

are doing investor-state arbitration commercial

00:00:55

arbitration and and public international

00:00:57

law. This is this is

00:01:00

one cost of the panels

00:01:03

that goes in that comes

00:01:05

very close to our pursuit

00:01:07

of ethos of Trying to

00:01:12

be faithful to the international

00:01:14

rule of law. And also

00:01:20

trying to do some some

00:01:26

broader community and social work

00:01:29

in terms of of of

00:01:30



expanding the international rule of

00:01:33
law as as vastly in

00:01:37
and broadly as we can

00:01:38
so as you can see

00:01:42
I'm as you know, Washington

00:01:45
arbitration week is is free

00:01:46
of cost. Not only for

00:01:48
those attending in person but

00:01:50
also for those that are

00:01:51
overseas and and are unable

00:01:53
to to come to Washington

00:01:55
d.c. So I believe that

00:01:57
we may have at this

00:01:58



stage over over perhaps no

00:02:02

80 people together online and

00:02:05

in-person which is which is

00:02:06

a very positive thing and

00:02:07

they will keep on growing

00:02:09

but that would not be

00:02:11

possible. If we did not

00:02:13

have any sponsors that that

00:02:16

allows for this venture to

00:02:19

be sustainable. So I will

00:02:22

take some time and and

00:02:23

thank our sponsors starting with

00:02:26

the or host. Covington and

00:02:31



one of her or it's

00:02:34

called chairs amarni cheek and

00:02:36

and also Shireen who has

00:02:39

been a staunch supporters of

00:02:42

of Washington arbitration week and

00:02:44

on her sister than World

00:02:46

arbitration update which happened in

00:02:48

May what would also like

00:02:51

to thank a list of

00:02:52

sponsors and the and bear

00:02:55

with me including Norton Rose

00:02:57

Fulbright Burford a c r

00:03:00

e h k a a

00:03:05



koala Mooring strategy to ensure

00:03:08

Valley near Wylie White &

00:03:12

case on an ovary jams

00:03:14

Compass lexecon bakerhostetler Hostetler at

00:03:19

Deckard Cornerstone research Pillsbury three

00:03:23

crowns Baker Botts SRM, the

00:03:27

men's group are in fall.

00:03:29

PWC Gallagher Steptoe and shoes

00:03:33

on now, I would like

00:03:36

to turn to the presentation

00:03:39

of our moderator before that.

00:03:44

I'm going back to the

00:03:46

theme of Ukraine by sheer

00:03:49



luck. We we were committed

00:03:52

to Ukraine weight way before

00:03:56

that the invasion of Ukraine

00:03:58

took place. In fact the

00:04:00

Inn in World arbitration update

00:04:02

two or three years ago.

00:04:04

We had a first final

00:04:07

involving Ukraine on a comparative

00:04:11

analysis of enforcement of the

00:04:15

arbitration Awards in places that

00:04:17

are not necessarily the centers

00:04:19

or at the epicenters of

00:04:20

international arbitration. So I have

00:04:22



the time we had Ukraine

00:04:23

a how to enforce an

00:04:25

award in Ukraine how to

00:04:26

enforce an award, you know

00:04:28

their places of the End

00:04:30

and then a few months

00:04:33

later the invasion happen to

00:04:35

Tetra. So so with this

00:04:38

panel will be a perhaps

00:04:41

the 4th panel where where

00:04:43

we would try to get

00:04:48

more put some light on

00:04:50

on the Ukraine situation. And

00:04:54



then one of the constant

00:04:56

believes is is that the

00:04:58

when when The Invasion happens

00:05:00

and when there are so

00:05:01

many events at the light

00:05:04

if they have the spotlight,

00:05:06

but but but part of

00:05:09

the of the video support

00:05:13

that we can give as

00:05:14

a forum is to make

00:05:15

sure that the these shoes

00:05:17

the spotlight is is always

00:05:20

maintained that regardless of the

00:05:23



fact that there are many

00:05:24

many other issues in the

00:05:25

world that are that are

00:05:26

of concern, of course. Another

00:05:29

war in the Middle East

00:05:30

etcetera, but this is one

00:05:32

issue that concerns us very

00:05:33

much. So with that I

00:05:36

would like to To share

00:05:38

a few words about our

00:05:40

moderator Marnie cheek. As I

00:05:43

said as being a very

00:05:44

strong supporter of Washington arbitration

00:05:47



week. She coached co-chairs the

00:05:49

Covington International arbitration and dispute

00:05:51

practice and has advised companies

00:05:53

nongovernmental organizations and government on

00:05:58

a high-stakes international disputes and

00:06:00

legal strategy. For more than

00:06:01

20 years her work draws

00:06:05

upon her expertise in public

00:06:07

international law investment and international

00:06:09

trade she serves as both

00:06:11

counsel and Advocate before numerous

00:06:13

International arbitration tribunals and ports

00:06:16

including the icj. She currently

00:06:19



represents the government of Ukraine

00:06:21

in its landmark cases before

00:06:23

the international court of justice

00:06:24

address to the Russian Federation,

00:06:27

including allegations of genocide under

00:06:30

the convention on the prevention

00:06:33

and Punishment of the crime

00:06:34

of genocide and the in

00:06:36

addition. has also being an

00:06:42

investment treaty an international commercial

00:06:45

neighbors here in the past

00:06:47

and and she has represented

00:06:49

party before the major arbitration

00:06:52



Institute. I want a quickie

00:06:55

keep on going on going,

00:06:56

but I know that that

00:06:59

might made her make her

00:07:00

uncomfortable. So I'll stop there

00:07:02

morning. Thank you for having

00:07:04

us and and the floor

00:07:07

is yours. Thank you, Jose

00:07:09

Antonio and thank you for

00:07:11

all the hard work that

00:07:12

you put into Washington arbitration

00:07:14

week. It's a big undertaking,

00:07:15

but you're always well organized

00:07:19



and put together a really

00:07:20

interesting program. So thank you

00:07:22

so much for all your

00:07:24

working for your kind introduction.

00:07:25

So we're here today and

00:07:28

thank you for joining us.

00:07:29

It's great to see so

00:07:30

many people in the room

00:07:31

and online. We're here today

00:07:35

to talk about the Ukraine

00:07:37

crisis and post-war scenarios. You

00:07:40

probably heard a little bit

00:07:42

of background about myself. You'll

00:07:43



see that I thought well

00:07:45

if our topic is Ukraine,

00:07:46

I would take the opportunity

00:07:47

to wear my Ukrainian colors

00:07:50

today in light of our

00:07:52

topic and I would just

00:07:54

add the Covington is is

00:07:55

thrilled to be a month

00:07:57

again sponsoring or Washington arbitration

00:08:00

week. So welcome. I'm let

00:08:02

me introduce you to our

00:08:03

three experts who are joining

00:08:06

us after this discussion and

00:08:08



I we hope to have

00:08:09

an interactive discussion. I'm going

00:08:11

to post some questions to

00:08:12

our panelists and then we

00:08:15

can open it up for

00:08:16

questions. Let me actually start

00:08:19

with our panelists shoes online

00:08:21

Lou kocienski or you can

00:08:24

see on the screen is

00:08:26

snowed in in Western New

00:08:29

York. So we appreciate him

00:08:32

making the effort. Thank you

00:08:33

Luca for for joining us

00:08:35



in remotely at the last

00:08:37

minute. Luke is a special

00:08:39

counsel at Pillsbury Winthrop and

00:08:42

he is a Russian qualified

00:08:44

Barrister who's worked in Russia

00:08:46

for 10 years. He represents

00:08:49

multinational companies and cross-border disputes

00:08:52

and he has extensive experience

00:08:53

representing us corporations operating in

00:08:58

Eastern Europe. He's also lead

00:09:01

business and legal and audits

00:09:05

including in the areas of

00:09:06

anti-money laundering and bribery at

00:09:11



the end of the table.

00:09:12

We are joined by a

00:09:14

shark and a sheep who

00:09:16

is our non-lawyer on the

00:09:17

piano you always welcome. Those

00:09:19

Sears dryer is the emea

00:09:24

forensic o l at pricewaterhousecoopers

00:09:26

PWC and leave the PWC

00:09:30

dispute advisory Center of Excellence

00:09:32

has over 30 years of

00:09:35

experience and has prepared many

00:09:38

expert reports for international arbitration.

00:09:40

Send tribunals across the globe

00:09:42



including in Central and Eastern

00:09:44

Europe and he's been involved

00:09:46

in commercial cases investor-state cases

00:09:49

and also in a criminal

00:09:50

proceedings but not least. We

00:09:54

are pleased to be joined

00:09:55

by Gene bird with a

00:09:56

partner at fisherbroyles. Gene has

00:09:59

over 20 years of experience

00:10:01

handling cases involving enforcement of

00:10:04

foreign judgments and international arbitral

00:10:06

Awards in the US courts

00:10:08

asset recovery. And as well

00:10:10



as cases under the foreign

00:10:12

Sovereign immunities act Gene has

00:10:14

represented clients International arbitration and

00:10:17

also served as an arbitrator

00:10:18

himself and Commercial disputes Gina's

00:10:21

fluent in Russian conversant in

00:10:23

Ukrainian. And this we are

00:10:25

just sharing before the panel.

00:10:26

However is not currently traveling

00:10:30

to Russia. So I thought

00:10:33

I would just provide a

00:10:34

little bit of scene-setting. I

00:10:35

conceived I on the folks

00:10:37



in the audience summer very

00:10:39

well. Steve. On these issues

00:10:41

related to potential post-war compensation

00:10:47

for Ukraine, but others also,

00:10:49

I might be nearer to

00:10:50

the topic and interested in

00:10:52

learning more about it as

00:10:55

we approach the two-year Mark

00:10:56

of Russia's full-scale invasion of

00:10:59

Ukraine which happened in February

00:11:01

2020 to increase the tension

00:11:04

is really being paid as

00:11:06

to how Ukraine will recover

00:11:08



and we'll rebuild really with

00:11:10

the assistance of the rest

00:11:12

of the world following the

00:11:13

the war and while some

00:11:16

of the legal discussion regarding

00:11:18

the war in Ukraine really

00:11:20

has focused on the international

00:11:21

humanitarian aspects of the war

00:11:24

Russia as violations of international

00:11:25

treaties, but just the genocide

00:11:28

convention in the case that

00:11:30

was mentioned earlier today. I

00:11:32

want to focus on private

00:11:33



rights of action for damage

00:11:36

caused by Russia during an

00:11:37

invasion of Ukraine. How does

00:11:40

losses can be Quantified and

00:11:42

whether Russian funds which are

00:11:44

currently Frozen all over the

00:11:45

world can ultimately be used

00:11:48

for compensation for those who

00:11:50

have suffered both losses. I'm

00:11:52

just a very Dynamic topic

00:11:54

there is a lot really

00:11:56

happening to move the discussion

00:11:58

forward every day, and I'm

00:12:01



delighted to be joined by

00:12:02

three folks who have a

00:12:04

lot of experience and expertise

00:12:07

to add to the discussion.

00:12:08

I would just add for

00:12:12

the frame of reference last

00:12:14

March the international financial institutions

00:12:17

in the United Nations has

00:12:20

estimated that Ukraine had already

00:12:22

suffered about 411 billion dollars

00:12:26

of damage. And that was

00:12:27

just in the first year

00:12:28

of the war alone and

00:12:30



really no industry has been

00:12:32

spayed. This relates the housing

00:12:34

Transportation energy agriculture. I'm so

00:12:38

you really are looking at

00:12:40

a big reconstruction effort and

00:12:43

a number cuz I'm Ukrainian

00:12:45

and other Enterprises you have

00:12:47

claims for losses against the

00:12:49

Russian Federation. I'm so mad

00:12:52

that I think will start

00:12:53

to the questions and hopefully

00:12:54

have a robust conversation about

00:12:56

how to move these issues

00:12:57



related to compensation and rebuilding

00:13:01

as we move forward. Absolute,

00:13:05

let me start with you

00:13:06

since you are a remote

00:13:07

participant as I just mentioned

00:13:10

obviously many companies have seen

00:13:13

major losses due to Russia's

00:13:15

actions in Ukraine. I wonder

00:13:17

if you might speak a

00:13:18

bit to what type of

00:13:19

claims are possible to recover

00:13:21

those losses. And then also

00:13:24

of Interest kind of what

00:13:25



what is Russia doing now

00:13:27

to try to defend itself

00:13:28

against these plans. Thank you.

00:13:32

And thank you again. My

00:13:33

apologies for not being able

00:13:35

to be there in person.

00:13:36

You know, Russia's invasion of

00:13:40

Ukraine has certainly left led

00:13:42

to significant economic repercussions. As

00:13:46

you mentioned that has prompted

00:13:48

the US that you its

00:13:50

allies consider various legal Frameworks

00:13:54

for for compensating those that

00:13:56



have been affected. Obviously the

00:13:59

key question and relation to

00:14:02

to any claim is is

00:14:03

weather. And how you're going

00:14:05

to be able to enforce

00:14:06

that clients. That's where you

00:14:07

need to start one key

00:14:09

issue here, which may not

00:14:10

seem that important first is

00:14:13

the economic sanctions that have

00:14:15

been imposed on Russia Russian

00:14:17

individuals and Russian entities. And

00:14:19

why is not that important

00:14:21



to its sticks, of course

00:14:22

impossible to predict our the

00:14:25

when the war on Ukraine

00:14:26

will be over but at

00:14:28

some point it is possible

00:14:29

that that Russia will be

00:14:31

be looking to remove those

00:14:32

sanctions and provided that there

00:14:35

is a political wheels at

00:14:38

that point on this side.

00:14:39

One of the criteria for

00:14:41

their removal should be certainly

00:14:43

the use of those blocks

00:14:44



in frozen assets to satisfy

00:14:47

economic claims against Russia, but

00:14:48

but also the ability to

00:14:50

enforce the commercial claims against

00:14:52

against Russian parties. So those

00:14:54

two key questions really remain

00:14:56

undecided know how those claims

00:14:58

will be adjudicated where that

00:15:01

the funding to satisfy them

00:15:02

will come from And I

00:15:04

think they do go hand-in-hand

00:15:05

to the first step. We

00:15:08

seen countries taking taking that

00:15:11



they did that that first

00:15:12

step which is is a

00:15:13

process to register in claims

00:15:15

for a future time when

00:15:16

there will be a proper

00:15:18

communication process and an understanding

00:15:20

of funding the most prominent

00:15:22

nose is of course the

00:15:24

Council of Europe's register of

00:15:25

Damages, which was announced in

00:15:27

May of this year signed

00:15:30

by the EU and then

00:15:31

going over 40 other countries

00:15:32



this provide the initial framework

00:15:36

for the identification and registration

00:15:37

of claims against Russia by

00:15:40

the individuals companies and governments

00:15:43

as a result of the

00:15:45

invasion of Ukraine. It's important

00:15:48

for anyone with a claim

00:15:49

to begin with this process

00:15:50

as soon as possible, which

00:15:51

I'm sure will be speaking

00:15:52

about later on the panel.

00:15:54

There are some other measures

00:15:57

other countries were in the

00:15:58



Canada has taken the lead

00:16:00

in seizing in pursuing the

00:16:02

forfeiture of Russian assets. Including

00:16:05

those owned by any national

00:16:06

Russia with 22 cases than

00:16:09

we are of them including

00:16:10

that the whole getting a

00:16:11

airplane. That was so probably

00:16:13

parked at Toronto's Pearson International

00:16:15

Airport. If you've ever been

00:16:17

there in the last couple

00:16:18

of years, so that is

00:16:20

a first step The Remains

00:16:21



a lot to be seen

00:16:22

and in several potential options

00:16:24

for the adjudication process the

00:16:26

international commission through tribunal's under

00:16:30

the auspices of the UN,

00:16:31

which is difficult to see

00:16:34

now duded to the Vita

00:16:35

right of Russia. But again,

00:16:36

it's so difficult to predict

00:16:38

the future bilateral ad hoc

00:16:41

new should multilateral agreements such

00:16:44

as the date the Iranian

00:16:46

States claims tribunal and probably

00:16:49



most likely single-country administer proceed

00:16:53

under domestic law in Ukraine

00:16:56

has has has probably taken

00:16:58

the lead on this the

00:16:59

Supreme Court Reno rendering a

00:17:01

few judgments declaring the absence

00:17:04

of Precious opportunity and civil

00:17:06

civil court cases, but at

00:17:08

that that's actually quite controversial

00:17:11

in Ukraine. I understand and

00:17:12

so we'll see how that

00:17:14

that that that develops. And

00:17:16

of course, there's the Enforcement

00:17:18



issue as well. But really

00:17:20

that the strategy that that

00:17:22

those who have suffered losses

00:17:23

what will need to consider

00:17:25

various jurisdictions monitoring the potentials

00:17:29

for all of the types

00:17:31

of claims that they may

00:17:31

be able to submit as

00:17:34

far as Russia's concerned, you

00:17:36

know, it's it's easy for

00:17:37

us to get caught into

00:17:38

a pattern we think about

00:17:39

what it is that we

00:17:40



can do on this side

00:17:41

of the disputes. But Russia

00:17:44

is continuing to look at

00:17:45

at the developments are the

00:17:48

very well aware will take

00:17:51

two are taking or continue

00:17:52

to take measures to counter

00:17:54

any possible claims in the

00:17:56

end of potential for future

00:17:57

claims with the examples of

00:18:00

what I was thinking about

00:18:01

those Ukrainian the civil court

00:18:03

cases you can Already see

00:18:04



that there's the attempt to

00:18:06

formulate a position for several

00:18:08

years down the road there.

00:18:09

They're not attending the court

00:18:10

hearings. They made statements that

00:18:13

there are no diplomatic relations

00:18:14

between Ukraine and you can

00:18:15

Rush since we don't have

00:18:16

that the ability to defend

00:18:18

themselves in those cases and

00:18:21

if we use other things

00:18:23

happening as it is a

00:18:24

bit of a framework see

00:18:26



that the Russian Russians are

00:18:29

going to continue to adapt

00:18:30

so they've adapted to sanctions

00:18:32

that the measures that they've

00:18:34

taken to foreign investments in

00:18:36

Russia have always had an

00:18:37

eye on bitcoin cases to

00:18:40

avoid any any sort of

00:18:42

potential expropriation claims at least

00:18:45

to complicate those cases if

00:18:48

you look at the Several

00:18:50

examples of the aircraft we

00:18:51

all know are crap where

00:18:52



it where we're seeing is

00:18:54

in Russia and the Russian

00:18:56

government didn't just re-register them.

00:18:58

They they they took a

00:19:00

blind eye to wear those

00:19:02

aircraft were registered previously so

00:19:05

that the owners can register

00:19:07

them. So cycling is another

00:19:09

good example where they're not

00:19:10

actually taking away the assets

00:19:13

but they're they're permitting the

00:19:14

assets of the shares to

00:19:16

be transferred into Russia to

00:19:17



domestic jurisdiction. So with with

00:19:20

all of the the actions

00:19:22

that are taking over here,

00:19:23

it is important to see

00:19:24

what Russia is doing because

00:19:25

they will ban in my

00:19:27

opinion. They will fight any

00:19:29

any claims in the future.

00:19:30

Even if there is some

00:19:31

sort of agreement down the

00:19:33

road. Do you know Luke

00:19:38

before before I move on

00:19:39

if I could actually asked

00:19:40



you one follow-up question. You're

00:19:41

our only Russian qualified a

00:19:44

lawyer on the piano. And

00:19:46

I think the conventional wisdom

00:19:48

would be that trying to

00:19:50

seek redress from the Russian

00:19:52

court for damages suffered in

00:19:55

Ukraine would not be a

00:19:58

path to success, but I'm

00:20:00

wondering if you agree with

00:20:01

that conventional wisdom or you

00:20:03

think that there may be

00:20:04

for some types of cases

00:20:06



some Avenue a redress within

00:20:08

Russia self. Remember to take

00:20:12

the long the long road

00:20:13

to get to that answer

00:20:14

because well, I think that

00:20:17

the short answer is most

00:20:18

likely not for most cases

00:20:20

there may not actually be

00:20:22

a choice by the non-russian

00:20:25

party could be expected you

00:20:28

to Russian courts have been

00:20:30

taken in my opinion several

00:20:32

steps back in their independence

00:20:34



and professionalism. At the expense

00:20:36

of of non-russian parties in

00:20:38

those types of cases, and

00:20:41

I personally think that there

00:20:42

was a time when you're

00:20:45

the high level of corruption

00:20:46

in Russian courts was was

00:20:48

was was being produced and

00:20:52

I think that there's there's

00:20:53

always been a political component

00:20:54

to to the most high-profile

00:20:57

cases, but you just seeing

00:20:59

a system that was developing

00:21:01



that allowance the majority of

00:21:03

cases who are not as

00:21:04

high-profile to be able to

00:21:06

progress with a with him

00:21:08

a better chance for a

00:21:11

positive outcome for the night

00:21:13

but non-russian party since the

00:21:16

invasion of Ukraine and that

00:21:18

the imposition of sanctions that's

00:21:20

that's seemingly gone by the

00:21:21

wayside and now instead of

00:21:24

it only being high-profile cases.

00:21:26

You see that the type

00:21:27



of the type of decisions

00:21:29

being made with a political

00:21:31

angle that's happening not only

00:21:32

in the the general jurisdiction

00:21:33

Court where you have the

00:21:35

That the cases against artists

00:21:38

and and and protesters in

00:21:41

Ava New Edition is but

00:21:42

also in the state commercial

00:21:43

system the Arbitrage system of

00:21:45

courts in the Constitutional Court,

00:21:48

which is is set up

00:21:49

to to ensure that the

00:21:51



government law is is complying

00:21:55

with the Constitution has been

00:21:56

of little importance for many

00:21:58

years now. So what have

00:22:00

you think there's there's really

00:22:01

not much to look forward

00:22:02

to for an onrushing party

00:22:04

that is looking to seek

00:22:05

redress from the Russian courts.

00:22:07

That being said I said

00:22:11

a lot of the cases

00:22:12

the non-russian parties may not

00:22:14

have much of a choice

00:22:15



in this this of course

00:22:16

depends on how things will

00:22:18

develop but currently in commercial

00:22:21

claims including commercial arbitration, but

00:22:24

the Russian State Commercial arbitration

00:22:26

courts are consistently grabbing jurisdiction

00:22:30

of claims. When is a

00:22:31

very straightforward for an onrushing.

00:22:35

Arbitration Clause this goes back

00:22:38

to 2020 before The Invasion.

00:22:40

But but obviously this was

00:22:41

asking about after the 2014

00:22:44

invasion of Crimea and what

00:22:47



the courts have done. They

00:22:48

have a law that was

00:22:49

passed to say the Russians

00:22:50

don't have equal access to

00:22:52

defend their rights in commercial

00:22:54

arbitration cases to Broad. And

00:22:57

so if they are sanctions

00:22:58

or the dispute is is

00:23:00

more or less thanks and

00:23:01

related which has been very

00:23:03

widely interpreted then then that

00:23:06

the Russian State Commercial courts

00:23:08

have jurisdiction over that dispute.

00:23:10



So you have a number

00:23:13

of situations. Where is a

00:23:15

viable arbitration Clause that Russian

00:23:17

parties have decided to pursue

00:23:19

dispute. I looked at 2

00:23:21

to stop the arbitration prevent

00:23:24

the enforcement or to try

00:23:26

to get after assets of

00:23:27

companies that are that have

00:23:28

Assets in companies in Russia

00:23:31

or in countries that are

00:23:34

signatories of the Russia could

00:23:36

potentially enforce these cases are

00:23:39



moving forward even though there

00:23:41

wasn't an arbitration Clause. So

00:23:43

so that the Russian government

00:23:46

will continue to try to

00:23:48

find ways to protect the

00:23:50

interests of the Russian parties.

00:23:52

And unfortunately, the Russian courts

00:23:54

right now may be the

00:23:56

only option for for defending

00:23:59

your rights, even though that's

00:24:01

not the desired action option.

00:24:03

We'll see how that goes

00:24:03

forward, but I don't expect

00:24:05



that the Russian government will

00:24:08

lie down and and let

00:24:11

a lot of the claims

00:24:11

go out without some difficulty

00:24:13

similar to what we're seeing

00:24:14

now with the commercial arbitration.

00:24:17

Thanks Luke. Yes, certainly. We

00:24:29

had a case where we

00:24:30

were enforcing arbitration award to

00:24:32

Stockholm Awards and Russia against

00:24:35

a close leave the company

00:24:37

of those clothes with affiliated

00:24:39

with the Russian Moscow musical

00:24:41



government, and we've been successful

00:24:44

after five or six years

00:24:45

of litigation which went up

00:24:47

three times to the Supreme

00:24:49

Arbiter why Arbitrage Court would

00:24:51

have used to be back

00:24:52

down and eventually we're able

00:24:56

to transfer significant sums of

00:24:58

money based on his judgments

00:25:00

out of Russia in the

00:25:01

United States to the client,

00:25:03

but I just don't see

00:25:04

how it would be possible

00:25:06



right now under the present

00:25:08

political leadership in Russia. So

00:25:10

unless be political relationship with

00:25:12

change, I need them soon.

00:25:18

I think it sounds like

00:25:23

Russian courts would not be

00:25:24

the first choice. But what

00:25:25

about the US courts Jean

00:25:26

because a lot of claimants

00:25:29

are going to look for

00:25:30

ways to you to use

00:25:33

the US courts to try

00:25:35

to get redress or enforced

00:25:38



judgments against Russia the foreign

00:25:44

sovereign immunity. Of course, if

00:25:48

we want to bring a

00:25:50

somebody wants to bring a

00:25:51

claim whether is by way

00:25:52

of enforcement or direct claim

00:25:54

in the United States against

00:25:57

Russia against the Russian Sovereign

00:25:59

on one hand. You have

00:26:01

a pot of about 300

00:26:03

300 billion dollars of assets

00:26:05

in the United States have

00:26:07

been frozen by the US

00:26:09



government that these are Central

00:26:10

Bank acid that potentially a

00:26:12

good Target for Recovery. However

00:26:15

course they because of the

00:26:16

four Sovereign immunity. Is there

00:26:18

a very narrow exceptions that

00:26:20

would of any claim and

00:26:24

would be able to use

00:26:25

and the from others and

00:26:27

there are two levels of

00:26:28

sovereign immunity that are too

00:26:30

I would say two prongs

00:26:31

to the summer than you

00:26:32



you want is the sovereign

00:26:35

immunity under international law and

00:26:37

the other one is the

00:26:39

sovereign immunity under the US

00:26:41

law and they would both

00:26:44

need to be taking the

00:26:45

account. If you want to

00:26:46

pursue action under the US

00:26:49

law to three problems three

00:26:52

most likely exceptions that could

00:26:55

be used could be used

00:26:57

for the immunity. That one

00:26:59

is the arbitration exception second

00:27:01



is a waiver exception and

00:27:03

the commercial activity exception unless

00:27:06

of course the expropriation exception

00:27:08

of the Force 1 with

00:27:09

could be used in some

00:27:12

cases all of this exception.

00:27:14

Of course, the arbitration exception

00:27:16

would apply. If you want

00:27:17

the enforcer beat tration the

00:27:18

word if it's in the

00:27:20

claim and the things arbitration

00:27:22

awards that registration exception would

00:27:24

be the most direct way

00:27:28



to to to enforce this

00:27:30

award in the United States

00:27:32

under the foreign Sovereign immunities

00:27:34

act which which is the

00:27:36

sole basis for the New

00:27:38

Jersey section of the of

00:27:39

the foreign states in the

00:27:41

United States, even if you

00:27:44

if we would claim and

00:27:45

brings a claim in State

00:27:47

Court. It would be removed

00:27:49

would be could be removed

00:27:50

for the easy way to

00:27:51



move to the federal court

00:27:52

in the United States Federal

00:27:54

Court. It was interesting a

00:27:57

case was recently decided by

00:27:59

the Supreme Court that he

00:28:01

is around case was a

00:28:03

smog in the summer of

00:28:05

this year where the efforts

00:28:08

to prevent enforcement of their

00:28:10

betrayal in the word were

00:28:13

treated as next. The list

00:28:17

of the possible Nexus to

00:28:19

the US to the United

00:28:21



States for the info for

00:28:24

the application of the RICO

00:28:25

law which is a racketeering

00:28:27

influenced and corrupt organizations. That

00:28:30

is another way to look

00:28:32

into that. So if they're

00:28:34

up for example, if there

00:28:35

is a valid claim and

00:28:36

if there is an arbitration

00:28:38

award than the Judgment that

00:28:39

was obtained based on that

00:28:42

the arbitration award then Rica

00:28:45

might be a way to

00:28:46



to bring additional add additional

00:28:50

actors in this action because

00:28:53

Enrique is very often you

00:28:55

have conspiracy claims. Do you

00:28:57

have computer say allegation and

00:28:59

that something that could be

00:29:01

considerate so it's not on

00:29:02

the Russia but the other

00:29:03

parties or for example Reese

00:29:06

Russian oligarchs with asses they've

00:29:08

been frozen at Wall located

00:29:10

somewhere else outside of the

00:29:12

United States, but that's where

00:29:15



you need to consider. Specific

00:29:17

facts and circumstances, but in

00:29:20

order to really to to

00:29:21

lay out the strategy and

00:29:23

the trail and how to

00:29:25

how to get to the

00:29:26

assets and how to avoid

00:29:29

the just straightforward enough location

00:29:32

of the exception. That's that

00:29:39

took me one other way

00:29:41

to proceed and some Coors

00:29:43

apply the waiver exceptional cases

00:29:45

involving a enforcement of arbitration

00:29:49



Awards or even the judgments

00:29:52

that Against foreign state so

00:29:55

that's something that would need

00:29:58

to be considered the interesting

00:30:00

the last one dangerous thing.

00:30:02

I mentioned about the expropriation

00:30:03

exception tax preparation needs to

00:30:06

be against international law and

00:30:09

US courts. Actually, they adopted

00:30:12

the application off what what

00:30:14

is violation of international law

00:30:16

from the icj decision in

00:30:18

the Germany versus Italy which

00:30:22



basically held that the the

00:30:25

gross violations of the serious

00:30:28

violations of humanitarian law do

00:30:31

not provide exception from from

00:30:34

immunity. So from from that

00:30:37

standpoint, we need to find

00:30:38

other argument additional arguments to

00:30:40

see how that specific house

00:30:43

that specific exception can be

00:30:46

applied. Thanks Gene. So I

00:30:50

think we've mapped out the

00:30:53

choosing a legal pass can

00:30:55

be complicated. But of course,

00:30:56



there's also an additional complication

00:30:58

which is how you really

00:31:00

make your damages play case

00:31:03

in the first place and

00:31:04

how you can figure out

00:31:05

how much compensation he might

00:31:07

be due so that you

00:31:09

actually are a lucky one

00:31:10

who has who has the

00:31:12

claim a specific claim to

00:31:15

be able to try to

00:31:16

get paid or enforced against

00:31:19

Russian assets this year. So

00:31:20



I thought you might help

00:31:22
us going to take a

00:31:23
step back and be thinking

00:31:24
about I mean from a

00:31:25
practical perspective, what are some

00:31:27
of the challenges you see

00:31:28
and what you know, what

00:31:30
is the evidence look like

00:31:31
to support some of these

00:31:32
damages claims that are coming

00:31:34
out of the war in

00:31:36
Ukraine. Thank you, Mommy. I

00:31:38
just would like to take

00:31:39



the opportunity just to say

00:31:42

thank you to the organizers

00:31:43

with what's an arbitration week

00:31:45

my first time here and

00:31:47

I'm very impressed. I have

00:31:48

to say to these make

00:31:49

sense because yesterday I'm very

00:31:51

annoyed with my speakers. I'm

00:31:53

working with this today. So

00:31:54

so well. I'm looking forward

00:31:56

to the rest of the

00:31:57

week as well and thank

00:31:58

you for contempt for us

00:31:59



for hosting us today as

00:32:02

well. So, I mean I'm

00:32:05

based in Prague. I know

00:32:06

I don't look back but

00:32:08

I I am based there

00:32:09

and I I cut her

00:32:10

off at Eastern European at

00:32:12

practice for PWC from a

00:32:13

friend's expect him and dispute

00:32:15

perspective that includes Ukraine. I

00:32:19

would say the Lost just

00:32:21

less than two years. Now.

00:32:22

I've been heavily involved without

00:32:23



practicing you crying. I would

00:32:26

say that they are fully

00:32:29

functioning even saw a sister

00:32:31

who started we have a

00:32:32

practice to 400 partners and

00:32:35

staff are still operating the

00:32:37

fully-fledged helping clients are on

00:32:39

the ground and select offering

00:32:42

the Food Services order excetera.

00:32:45

So I'm very impressed with

00:32:47

a very proud of my

00:32:48

team and they take them

00:32:52

over there and I would

00:32:52



say the definition of resilience.

00:32:54

Absolutely. Soon after we start

00:32:59

looking at what was happening

00:33:00

in the woods continuing one

00:33:03

of the first things we

00:33:04

did was set up as

00:33:05

a specimen sense when you

00:33:06

crying with our forensics team

00:33:08

found primarily because we don't

00:33:09

know what's going to happen

00:33:10

and I'm just totally is

00:33:13

like the still not sure

00:33:14

what's going to happen and

00:33:16



I'm hearing still looks like

00:33:18

an places to eat around

00:33:18

the legal jurisdiction the times

00:33:20

of what might happen in

00:33:21

terms of how even Claims

00:33:24

can be enforced obtains excetera

00:33:27

excetera. So on until 2

00:33:34

or so so we got

00:33:36

in mind. I mean the

00:33:37

one of the questions is

00:33:39

why why do anything now?

00:33:43

Why why why the damage

00:33:45

has been a lot of

00:33:46



things are just not clear

00:33:47

in terms of process is

00:33:49

true. I mean, but I

00:33:51

have to say from experience

00:33:52

preparing a Quantum claim is

00:33:57

not easy as loss of

00:33:59

evidence documents you need and

00:34:02

the first thing you need

00:34:03

to do is is tender

00:34:05

documents and even with companies

00:34:07

not in the situation. It

00:34:09

is a challenge but here

00:34:11

I think we are tokens

00:34:14



of companies and they want

00:34:15

to be prepared. They want

00:34:17

to be prepared for what

00:34:18

happens next now. We don't

00:34:19

know what it's going to

00:34:21

look like. Is it going

00:34:21

to be true us course

00:34:23

is going through an investment

00:34:25

treaty. Is it going to

00:34:26

be through some things commission?

00:34:28

Don't know. What is it

00:34:31

like to put that they

00:34:33

will they can claim and

00:34:35



be prepared for that in

00:34:36

order to build the building

00:34:37

blocks of a strong claim.

00:34:38

You need to have evidence

00:34:40

of documents. So I am

00:34:43

not going to underestimate that

00:34:44

the level of respective clients

00:34:51

of this is sunshine people

00:34:54

to visit. They do want

00:34:55

to be dealing with quotes

00:34:56

and climbs do what they

00:34:57

want to do it. I

00:34:57

want to do business continued

00:35:01



to be done. So that's

00:35:06

very much at the anticipation

00:35:08

and tons of getting the

00:35:08

business Towing what needs to

00:35:10

be done. And also I

00:35:13

mean all questions that come

00:35:15

out, you know, the reasons

00:35:16

why companies want to do

00:35:18

something now, it could be

00:35:19

safest a subsidiary of a

00:35:21

parent company somewhere else Ukrainian

00:35:23

subsidiary. They wants us to

00:35:25

understand what may be the

00:35:26



rebuild cost of a claim

00:35:30

pending knowing how that will

00:35:32

be done. Be at the

00:35:41

Nexus of where I can

00:35:43

claim and how they can

00:35:43

claim most of the time

00:35:44

to Annapolis Bowl tickets Austin

00:35:46

to pull the documents together,

00:35:47

but something will come out

00:35:50

as you can hear the

00:35:51

loss of hard work going

00:35:52

on in terms of working

00:35:54

groups and registers being set

00:35:56



up in terms of what

00:35:57

may happen, but certainly to

00:35:58

be ready for that point

00:36:00

in time. So maybe just

00:36:02

talk a little bit about

00:36:03

the types of documents that

00:36:05

we met in on. This

00:36:06

is just being practical here.

00:36:07

I'm not going to give

00:36:08

you a full list of

00:36:09

everything that's needed besides the

00:36:11

you know, things like accounting

00:36:12

records and it is a

00:36:13



thing that you need to

00:36:14

expect to manage my account.

00:36:15

But I'm slick out from

00:36:16

the past and companies are

00:36:18

still training these over cuz

00:36:19

they all still spending money

00:36:20

on it. I know it's

00:36:22

mostly but yes, there are

00:36:23

things going on than a

00:36:24

different things like damage to

00:36:28

property in terms of technical

00:36:30

construction cost incurred because of

00:36:34

the invasion and Sons of

00:36:35



employee relocation. How long do

00:36:39

they continue playing the stuff

00:36:40

they keep stuff. I need

00:36:45

to stop because I want

00:36:46

to continue being gone so

00:36:48

that people Christy goes down

00:36:50

in terms of say Alexa

00:36:52

to shut down so that

00:36:53

have generators and how to

00:36:55

keep business is going as

00:36:56

they also have these costs

00:36:58

documents if they need to

00:37:00

be evidence. That's what it

00:37:02



once said. The other one

00:37:03

is up to see what

00:37:04

is the business plan what

00:37:05

will happen next week talk

00:37:06

about scenarios. But in times

00:37:08

of okay, let's assume the

00:37:10

war ends tomorrow. What needs

00:37:17

to be different companies approaching

00:37:20

us but like for example

00:37:21

things like and I've demining

00:37:23

cost for example to the

00:37:25

things that can happen and

00:37:26

unsightly in order to Rio

00:37:28



rebuild cost excetra the other

00:37:31

factors around taking penalties and

00:37:33

some company tonight being damaged

00:37:38

as the other businesses the

00:37:40

alarm. But the noise control

00:37:43

of the business. Is there

00:37:44

any occupied area? So in

00:37:46

terms of what happened to

00:37:46

that? I will you know

00:37:47

Sunday completing a complete list

00:37:49

of events. What they have

00:37:50

there with the body may

00:37:51

have been what the body

00:37:52



was a subsequent does aloe

00:37:55

in there and ultimately it

00:37:58

needs to be considered under

00:37:59

what type of legal Nexus

00:38:00

might happen next. But I

00:38:02

think the show is about

00:38:03

Tinker fast. Thanks are sharp.

00:38:07

Can we have a legal

00:38:09

pathway? We know that there's

00:38:10

something you can do now

00:38:11

or just try to figure

00:38:12

out I'm kind of what

00:38:14

your damages them have been.

00:38:16



There's another issue. I thought

00:38:18

it would make sense to

00:38:19

address which particularly here in

00:38:20

Washington is a is a

00:38:23

hot topic of conversation. And

00:38:24

that is there are these

00:38:26

Sovereign frozen assets that were

00:38:30

referred you earlier and they're

00:38:33

hard to attach even if

00:38:35

you do have an award.

00:38:37

I was wondering Jean. I

00:38:39

know you've been following some

00:38:40

of the legislative developments in

00:38:42



the US Congress related to

00:38:45

the possibility of using those

00:38:46

frozen Sovereign assets to stop

00:38:48

but satisfy claims, and I

00:38:50

wonder if you might speak

00:38:51

a bit to where you

00:38:52

see what kind of legislative

00:38:55

process right now. Sure. Well

00:38:58

the good news is that

00:38:59

you have a uniform support

00:39:01

of Ukraine on both sides

00:39:03

of the spectrum of putting

00:39:06

aside. Samsung some insignificant minority

00:39:08



again on both sides of

00:39:10

the spectrum and administrated. The

00:39:14

administration was also very supportive

00:39:16

of the Ukraine efforts to

00:39:18

to defend itself of Coors

00:39:21

and to the ability to

00:39:23

provide for their construction to

00:39:26

the funding for their construction

00:39:27

of all over the country

00:39:29

the word proposal from the

00:39:32

US government from the final

00:39:34

deceleration. That was mostly focused

00:39:40

on the efforts by the

00:39:41



Department of Justice to obtain

00:39:45

funding from various sources, not

00:39:48

necessarily from the frozen assets,

00:39:50

but also for example From

00:39:53

the Ashes so the kleptocrats

00:39:55

would they call slippers? Kleptocrats

00:39:57

are Ola guards to obtain

00:40:00

these asses so I took

00:40:02

from those that being frozen.

00:40:06

Sanctions and Anto to confiscate

00:40:10

these assets and to use

00:40:11

them for the to put

00:40:14

the in the compensation fund.

00:40:15



And again, this Pond would

00:40:18

be either by way of

00:40:20

some type of a claim

00:40:22

conditions whether it would be

00:40:24

a number of different proposals

00:40:26

right now bloated in the

00:40:29

academic institutions as well as

00:40:31

on the hill regarding what

00:40:33

how this that conversation can

00:40:36

be structured the other than

00:40:39

you didn't discuss is clamping

00:40:42

down on facilitation of sanction

00:40:44

evasions any entity that would

00:40:48



be found to be violating

00:40:51

us sanctions on its assets

00:40:53

that could be used to

00:40:56

again to put it in

00:40:57

the van to compensate compensate

00:41:00

the Ukrainian and EU Korean

00:41:03

government or private actors with

00:41:05

whatever. Again, so impressive development.

00:41:08

The other is why I

00:41:11

mentioned before about the racketeer

00:41:14

influenced and corrupt organization act

00:41:15

and that's was in the

00:41:18

side of civil claims. But

00:41:19



now the United States government

00:41:21

also wants to include it

00:41:24

was considering including violation of

00:41:27

sanctions. As one of the

00:41:29

predicate act under the Rita

00:41:31

law that would allow it

00:41:33

in again in some clear

00:41:35

this point whether it would

00:41:36

also allow private cause of

00:41:38

action or only from the

00:41:41

side of the government, but

00:41:44

that would be another possibility

00:41:46

to confiscate assets. Eventually that

00:41:49



would be used for Ukraine.

00:41:51

There are some other proposal

00:41:54

from the US administration of

00:41:57

from the Senate and there

00:41:59

is also a joint Bill

00:42:01

the Senate and the house

00:42:03

bill as you know, many

00:42:05

of us. I'm sure you

00:42:07

all know but for the

00:42:08

bill has to pass both

00:42:09

Chambers the can the Senate

00:42:12

and House in order to

00:42:13

become log. So there is

00:42:15



a joint proposal called the

00:42:16
repo a car that was

00:42:19
introduced by both parties votes

00:42:24
in the Senate and the

00:42:26
house or to join bill

00:42:27
which which Moves In Parallel

00:42:30
last time. I looked at

00:42:31
it was no committee hearings

00:42:34
on this bill that was

00:42:35
introduced to have some preliminary

00:42:36
can do it was read

00:42:37
twice, but the doesn't look

00:42:42
like there is a very

00:42:42



active woman from this bill

00:42:44

probably people in the hill

00:42:47

at busy with some other

00:42:48

issues would be considered more

00:42:50

important, but I was a

00:42:51

last that's important step forward.

00:42:53

Do you have this bill

00:42:55

introduced and considered and covid-19,

00:43:02

Florida to confiscate trash? Sovereign

00:43:06

assets that have been frozen

00:43:08

in the United States and

00:43:10

transfer them to assist Ukraine

00:43:11

the construction effort again, there

00:43:14



is very little details of

00:43:15

how this assets will be

00:43:17

used where they will be

00:43:19

transferred Department of State will

00:43:21

probably play a role in

00:43:22

that. It's it's unclear at

00:43:26

this point. I was trying

00:43:28

to see if there are

00:43:29

any developments as far as

00:43:31

to provide additional exceptions to

00:43:34

the foreign Sovereign immunities. I

00:43:37

couldn't find any direct for

00:43:40

puzzle on that maybe in

00:43:42



the process of scholarly deliberations

00:43:45

on this type of legislation.

00:43:48

That would be some amendments

00:43:49

that would allow private cause

00:43:50

of action but so far

00:43:52

most of the efforts on

00:43:56

the Congressional side of focused

00:43:58

on providing the US government

00:44:00

or some type of international

00:44:03

bodies or tribunals Open relations

00:44:07

with funding to create some

00:44:09

types of the tribunal some

00:44:12

some like will you refer

00:44:13



to your andreyev? You know,

00:44:14

it was some type of

00:44:16

compensation commission that would a

00:44:19

consider this clean switch bring

00:44:21

back this private client, but

00:44:23

the question is which for

00:44:25

him this glands will be

00:44:26

brought with it. They will

00:44:27

be directly within the US

00:44:29

courts or through the commission

00:44:31

that through the claim Claims

00:44:34

Commission that would have enough

00:44:36

sufficient funding to provide compensation.

00:44:38



Thanks, Tina. Ukraine is also

00:44:43

undertaking legislation to be able

00:44:45

to strip Russian us at

00:44:47

the stubborn, but I decided

00:44:54

last year decided in Ukraine

00:44:56

wear according to the Supreme

00:45:00

Court the cranium Supreme Court

00:45:02

they held held that there

00:45:05

is no stopping. YouTube for

00:45:07

violations of international law, however,

00:45:11

we know Ukraine is not

00:45:13

a commonwealth country. So this

00:45:14

one poor decision is not

00:45:16



necessarily does not create a

00:45:17

law in your crane are

00:45:19

and that's why there is

00:45:21

a legislative action that is

00:45:22

required on Ukrainian side and

00:45:25

indeed there is a load

00:45:26

in deliberate. It's in the

00:45:28

in the Rada that would

00:45:31

allow stripping Russia from sovereign

00:45:34

immunity in connection with any

00:45:36

claims relating to the Russian

00:45:38

invasion and got some aggression

00:45:39

aggression the Ukraine. Well one

00:45:43



issue that I'm I'm personally

00:45:45

involved one issue, which is

00:45:47

what type of notice is

00:45:49

required and how the how

00:45:52

this notice can be made

00:45:54

out of the Russia can

00:45:55

be served in this type

00:45:57

of claims and because there

00:46:00

were 10 number of claimants

00:46:03

in Ukrainian course to serve

00:46:05

Russia. Required by our Ukrainian

00:46:08

legislation in cases involving a

00:46:10

foreign States and chords Russia

00:46:13



and many cases. They simply

00:46:15

ignored this and some cases

00:46:17

they simply return the court

00:46:19

papers. So I mean you

00:46:22

can imagine in the in

00:46:25

the current political situation that

00:46:27

the Ministry of Foreign Affairs

00:46:29

would somehow accept service all

00:46:31

the claim against Russia in

00:46:33

Ukrainian court against the Russian

00:46:35

Federation. So that's highly unlikely

00:46:37

so needs to be some

00:46:39

other mechanism to allow service

00:46:42



that would be on one

00:46:43

hand legal in the Ukrainian

00:46:45

law and then on the

00:46:47

other hand recognized by the

00:46:50

country for example it by

00:46:52

the United States if the

00:46:54

Judgment that is based in

00:46:55

such claims brought against Russia

00:46:58

United States to the Damages

00:47:06

expects in the complexities there,

00:47:08

you know, I was thinking

00:47:10

about what you were saying

00:47:12

about how like the different

00:47:13



types of documentary evidence. You

00:47:16
need to be able to

00:47:17
build a case the fact

00:47:19
that you have people on

00:47:20
the ground the fact that

00:47:21
Ukrainian companies are engaging with

00:47:23
you, but do you think

00:47:25
just putting your expert hat

00:47:27
on that? You're really going

00:47:31
to be able to get

00:47:31
all the evidence that you

00:47:32
would need say regarding, you

00:47:35
know losses in temporarily occupied

00:47:40



territories, or do you see

00:47:42

that whether this a compensation

00:47:45

commission or arbitrary individual arbitrations

00:47:49

that are brought do you

00:47:50

think that there's going to

00:47:51

need to be some kind

00:47:53

of flexibility on the tribunals

00:47:55

behalf and look at these

00:47:56

damages issues because just of

00:47:59

the complexities and in some

00:48:00

cases maybe inability of gathering

00:48:02

evidence. I'm just wondering if

00:48:04

you your kind of scene

00:48:04



that down the road or

00:48:06

I think I actually know

00:48:06

it should play out the

00:48:07

way it has the mother

00:48:08

cases because I cannot expect

00:48:16

to the classic situation. So

00:48:19

no Claims Commission may be

00:48:21

a classic situation of a

00:48:22

tribunal it. What did I

00:48:23

need? So I filled my

00:48:26

job is next to its

00:48:28

prime them with as much

00:48:28

evidence is available practically mean

00:48:32



appreciate you may not have

00:48:34

everything but like for example

00:48:37

if we were assessing a

00:48:38

lostprophets assessment you looking to

00:48:41

assess it as a everyone

00:48:43

knows you have a butt.

00:48:44

In our account of factual.

00:48:47

And then you deduct that

00:48:49

from a nausea symptoms of

00:48:50

what is happening now. From

00:48:52

where? Does it stop from

00:48:55

the beginning of the wool

00:48:57

does it stop from when

00:48:59



the business was somehow interfere

00:49:01

with enzymes are from a

00:49:02

perspective. So there's a few

00:49:07

questions in that and what

00:49:08

I think what we can

00:49:09

do as experts is maybe

00:49:10

run those scenarios depending on

00:49:14

which way it's going unless

00:49:15

we get clear Direction. So

00:49:17

that's maybe one way we

00:49:18

can help so again saying,

00:49:20

okay, let's assume that being

00:49:21

a warrior to helping to

00:49:22



protect sounds reasonable and support

00:49:32
the Camry. If it's in

00:49:36
relation to Masala damaged, okay,

00:49:37
how did that affect the

00:49:39
damage? Let me see compensated.

00:49:42
So that's what I want

00:49:44
a difficult as much as

00:49:47
we can do and then

00:49:47
the other side of providing

00:49:49
sanara's is in the as

00:49:50
it's an all right, which

00:49:51
is what is actually happening.

00:49:53
What at what point in

00:49:54



time all we ever a

00:49:56

point in time with a

00:49:56

business. Is she moving on

00:49:58

and everything is done. Well

00:49:59

that's easier said it's the

00:50:01

cost to get to that

00:50:02

point and then for the

00:50:03

business to to move forward

00:50:05

and I'm assuming if it's

00:50:08

in the same state with

00:50:09

her friends, so that's easy

00:50:10

or is it done before

00:50:11

hands in which case we'll

00:50:14



have a project again having

00:50:16

to protect will what is

00:50:17

the as is you know,

00:50:18

how long? If the company

00:50:20

was to put on alternative

00:50:22

business plan into place for

00:50:24

personal renters what my happening

00:50:26

then we can discuss trying

00:50:27

to say is that I

00:50:28

will the bull finish 1

00:50:29

years 12 years and three

00:50:31

years and then we get

00:50:32

from that again. It just

00:50:33



corned beef. I think what

00:50:35

we can do for it

00:50:36

as experts or the tribunal

00:50:38

has put us down and

00:50:40

then the tribunal will play

00:50:42

with it again. I'm looking

00:50:43

at a lot of uncertainty

00:50:44

of the my actions maybe

00:50:46

things will get Clara looking

00:50:51

looking at that sort of

00:50:53

thing. It was a long

00:50:56

question. If you don't mind,

00:50:58

we see some cases right

00:51:02



now. We're there a commercial

00:51:03

disputes without involving Force measure

00:51:06

that is caused by the

00:51:09

events in Ukraine and her

00:51:15

parties from different countries from

00:51:18

different jurisdictions. Some of them

00:51:20

maybe Ukrainian some of them

00:51:21

maybe not how would you

00:51:23

assess the situation from the

00:51:27

damages perspective? So maybe just

00:51:31

clarify the situation so spoiled

00:51:33

and some of them even

00:51:40

if it's not the occupied

00:51:43



Zone the ability of the

00:51:46

parties to continue with this

00:51:48

construction project is impeded because

00:51:52

of the Russian invasion. So

00:51:55

how would you assess the

00:51:56

damages are in that particular

00:51:59

scene and I will do

00:52:00

that be a conventional type

00:52:02

of analysis has been impacted

00:52:07

by the by the force

00:52:10

majority. But are you would

00:52:12

consider the fact that there

00:52:14

is an invasion in in

00:52:16



in in Computing this type

00:52:20

of her potential recovery by

00:52:23

any of the parties? Yeah,

00:52:26

I'm going to starting point

00:52:27

for me is always glory

00:52:28

and something wrong with the

00:52:29

instructions. We making three of

00:52:31

you asking us to see

00:52:32

my the way out that

00:52:33

way. So if the Assumption

00:52:35

as if the instruction you

00:52:36

giving me is by Russia

00:52:39

that caused the situation now,

00:52:41



what is the lost another

00:52:42

lost his to whom and

00:52:44

whose cause who's who's who's

00:52:45

in cut the Lost? Cuz

00:52:46

I seen the two parties

00:52:47

to the contract. They've been

00:52:49

cut the lost. So I

00:52:50

suppose that's how we would

00:52:52

have said it if that's

00:52:52

the instruction that you're giving

00:52:54

us you're saying is he

00:52:55

meeting with mature caused by

00:52:57

Russian a third party to

00:52:58



a contract will be taking

00:53:00

a claim under that contract

00:53:02

I guess restaurants you Jean

00:53:06

I think you're going to

00:53:07

have to enter into a

00:53:08

contract with your shower to

00:53:09

get more details available so

00:53:13

we can let me just

00:53:17

ask one more question of

00:53:19

of Luke's eye Lucas left

00:53:21

you and your snow and

00:53:25

then we'll open it up

00:53:26

for questions. So I have

00:53:28



questions they can I come

00:53:30
for it to the to

00:53:32
the microphones. But just to

00:53:33
ask one last question moved

00:53:34
our entire discussion pretty much

00:53:37
has been framed as Russia

00:53:38
being responsible for your loss

00:53:42
and damage and how the

00:53:44
various we go past available

00:53:46
the challenges involved both on

00:53:48
the quantum side and then

00:53:50
to the legal and sovereign

00:53:52
immunity side, but I was

00:53:55



wondering just in terms of

00:53:56

commercial disputes we're all so

00:53:59

we can Russian parties may

00:54:01

have been affected by the

00:54:03

by the war as well.

00:54:05

Do you see do you

00:54:08

think Russians will also be

00:54:09

filing kind of commercial claims

00:54:11

and how are those being

00:54:14

handled and in terms of

00:54:16

cases where Russia's Russian companies

00:54:19

are defending those commercial claims.

00:54:21

You know how those types

00:54:23



of cases are are playing

00:54:24

out. Yeah, I mean the

00:54:28

answer is yes. I do

00:54:30

expect that. It is difficult

00:54:32

to predict where where this

00:54:34

is all going to end.

00:54:35

But the in the environment

00:54:38

right now is just one

00:54:39

in which there are many

00:54:42

factors that point to Russian

00:54:45

companies continuing to be aggressive

00:54:46

as soon as there's an

00:54:48

opening that potentially they understand

00:54:50



that there might be the

00:54:52

ability to enforce a Broad

00:54:54

Ripple of the aggressiveness. You

00:54:56

have a lot of Russians

00:54:57

right now who are challenging

00:54:58

sanctions designations and in cases

00:55:01

that are have not been

00:55:02

very successful on on their

00:55:04

side. So there's a lot

00:55:06

surrounding. Let me see a

00:55:08

war is it is difficult

00:55:09

situation. You put your your

00:55:11

yourselves in the position of

00:55:15



the Russians there, the company's

00:55:17

or are not doing well

00:55:18

economically that the Russian economy

00:55:21

in the matter what the

00:55:21

Russian government has said has

00:55:23

been hit hard by by

00:55:24

the war yet. They're still

00:55:26

on. A lot of assets

00:55:28

and a lot of funds

00:55:30

to go to go after

00:55:31

foreign companies and there is

00:55:33

an understanding that if sanctions

00:55:35

have hit the mega that

00:55:36



that was unfair just two

00:55:38

parties. They're still all the

00:55:40

garbage that have tried to

00:55:41

distance themselves from the Kremlin

00:55:43

door for from Russia who

00:55:45

are still tied up in

00:55:47

sanctions. And then course you

00:55:50

have a lot of very

00:55:50

experienced arbitration specialist in Russia

00:55:53

who used to work for

00:55:53

foreign companies, but but still

00:55:55

have a lot of experience

00:55:56

working in commercial commercial electrician.

00:55:59



So no matter how this

00:56:01

conflict and it seems to

00:56:05

me that we're right on

00:56:06

the precipice of a whole

00:56:07

number of disputes are going

00:56:09

to be coming from from

00:56:10

both sides similar to what

00:56:13

we saw through 2014. Those

00:56:16

are be contractual like like

00:56:18

she was talking with the

00:56:19

force majeure not only in

00:56:21

Ukraine, but also also in

00:56:23

Russia, Ukraine and Russia and

00:56:25



economies are so connected there

00:56:27

is bound to be supply

00:56:29

chain disputes. Look at the

00:56:30

the nuclear industry and you

00:56:33

have if you have nuclear

00:56:34

power plants where the matches

00:56:35

getting is from from real

00:56:36

Sodom, but but all of

00:56:38

the turbine blades and everything

00:56:41

else that needs to be

00:56:42

developed as IP rights that

00:56:43

are held by Russians, there's

00:56:44

contracts to 222 supply parts

00:56:48



that are held by Russians

00:56:49

and we can expect those

00:56:50

are all going to be

00:56:51

canceled in the future. I'm

00:56:53

so the number of contractual

00:56:55

disputes investment claims so investors

00:56:58

from outside of Russia who

00:57:00

feel that they're their assets

00:57:01

have been expropriated, but also

00:57:02

rushing to feel that it's

00:57:04

been a short duration by

00:57:05

the West pending on what

00:57:06

happens based on this conversation

00:57:08



insurance claims plenty of insurance

00:57:12

disputes coming forward. So so

00:57:15

Yes, we can I think

00:57:17

similarly right now. So it's

00:57:19

a really say we're in

00:57:20

the thick of it. But

00:57:21

at some point we will

00:57:22

get to that point where

00:57:24

where where where companies are

00:57:26

going to start getting more

00:57:27

aggressive then comes the question

00:57:28

of where are the assets

00:57:30

again and then who has

00:57:31



access to so I think

00:57:34

what's important to to look

00:57:36

at now is what is

00:57:37

going to be the Russian

00:57:37

government's role in in those

00:57:39

disputes. Are they going to

00:57:40

continue to try to take

00:57:42

measures to protect their companies

00:57:44

moving forward or do they

00:57:45

have other different problems that

00:57:47

that there that they're dealing

00:57:49

with this going to be

00:57:50

a jurisdictional challenges that they

00:57:52



may be able to help

00:57:53

out with the applicability of

00:57:54

sanctions that they're going to

00:57:56

challenge force majeure on the

00:57:57

Russian launch is something that

00:57:59

is disputed and then of

00:58:00

course, you know this opportunity

00:58:02

claim for any of the

00:58:03

state-owned Enterprises, which we know

00:58:04

the Russian economy are this

00:58:06

is quite a large percentage.

00:58:07

So it's it's it seems

00:58:09

like we are in I

00:58:10



want to say the Calm

00:58:11

before the storm with commercial

00:58:13

disputes, but we are on

00:58:14

the precipice. A very active

00:58:16

time and I wish I

00:58:18

could say one that was

00:58:19

was going to really kick

00:58:20

off their things going on

00:58:22

now, but I don't expect

00:58:24

the aggression to end with

00:58:26

with any sort of solution

00:58:28

to the to the war.

00:59:48

One of them others than

01:00:08



that pursued claims against their

01:00:10

respect. every year and every

01:00:28

year there is a very

01:00:29

high interest of this because

01:00:42

Any other questions? Okay. If

01:00:50

not, I had actually asked

01:00:51

a question to just drop

01:00:53

off it seems like we

01:00:56

talked a lot today about

01:00:57

and interested to hear what

01:01:02

your predictions are for all

01:01:05

this all along all the

01:01:07

mother ultimately either through private

01:01:09



action or otherwise you think

01:01:11

that there will be some

01:01:12

form of compensation for the

01:01:16

Z printing Enterprises that have

01:01:17

suffered considerable losses. are shotgun

01:01:25

parts Spectrum That's what is

01:01:56

around the process. nice and

01:02:40

snug as a I'm just

01:02:42

guessing more than anything like

01:02:49

turn believer that it will

01:02:52

be a compensation. It's hard

01:02:55

to figure out hard to

01:02:57

understand what form and shape

01:02:59



is going to take a

01:03:00

look at the Historical examples

01:03:05

some things to Mission few

01:03:09

years ago that events from

01:03:15

the time of world war.

01:03:17

So it's very slow process.

01:03:20

So worst adding the damage,

01:03:26

said it as soon as

01:03:27

possible. So at least in

01:03:32

the beginning of allies to

01:03:40

provide some form of compensation

01:03:42

and Probably some type of

01:03:47

a clean condition for which

01:03:54



for the individual losses as

01:03:58

business. If you look at

01:04:00

the allergic type of company

01:04:02

is larger companies International corporations

01:04:04

that they made they met

01:04:06

on the table or some

01:04:14

other type of prettiest, but

01:04:16

eventually made a long long

01:04:19

time until this And you

01:04:25

throw in my two cents

01:04:26

to do we have any

01:04:28

here as there know who

01:04:36

can correctly. Absolutely. Absolutely. There

01:04:47



is a international or there

01:04:50

is a there's a Ven,

01:04:54

I think there's an emergency

01:04:58

arises. The president of the

01:05:02

United States sanctions is a

01:05:06

very old to they've been

01:05:08

used in a international United

01:05:13

States is not absolutely sure

01:05:21

that there is a basis

01:05:23

in the US war and

01:05:25

international War. Actions is that

01:05:32

they don't confiscated these breathe.

01:05:36

They don't change that. They

01:05:40



don't transfer title that don't

01:05:42

they don't allow anyone knew

01:05:45

they had a claim damages

01:05:47

and say he's so you

01:05:59

have \$300 Rosenthal Russian Sovereign

01:06:06

Assets in the United States.

01:06:08

That doesn't mean that they

01:06:09

don't get along anymore. Let

01:06:13

me a bar near here

01:06:16

look but only on your

01:06:18

computer if we have a

01:06:20

connection here, if you will

01:06:25

indulge me as moderator. I'm

01:06:26



going to decide that our

01:06:28

it challenge. Is there such

01:06:30

that I'm going to steal

01:06:31

your last words so, okay

01:06:33

cool. I would say just

01:06:36

going back to the spinal

01:06:37

question. But I think the

01:06:39

beauty of the International System.

01:06:41

Is there as many many

01:06:42

paths to pursue and all

01:06:45

of these Tabs are really

01:06:46

being pursued at once. So

01:06:48

larger corporations that are capable

01:06:50



of Green Plains now or

01:06:52

going to bring times now,

01:06:53

they're not going to wait

01:06:54

on the registry of damage

01:06:56

is prioritizing individual claims. So

01:06:59

that those that you know

01:07:00

smaller claims feel like they

01:07:01

also have a place to

01:07:02

go and I think all

01:07:04

of these things are going

01:07:05

to continue to move forward

01:07:06

at 1 and ultimately will

01:07:08

create kind of a complementary

01:07:10



web. Demands for a compensation

01:07:15

through rules-based mechanisms and due

01:07:20

process based mechanism that ultimately

01:07:22

on Wheels Forest compensation for

01:07:24

the widest possible range of

01:07:27

a doctor. So in that

01:07:29

regard, I guess I'm an

01:07:30

optimist and I have faith

01:07:31

in the system that it's

01:07:32

providing a multiple Pathways to

01:07:36

try to solve this complex

01:07:37

issue. I'm so mad that

01:07:39

please thank our panelists Luke

01:07:42



from the snow as well

01:07:43

as their shower from frogs

01:07:45

and Jean from raised by

01:07:50

machine and we are seated

01:08:07

you back for 14 minutes.

01:08:22

I don't know what the

01:08:24

issue is.