"Sanctions - Getting it right and getting it wrong

Seminar – ECLA(UK)– 13 October 2026

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Criminal offences under Regulations 11 to 15 of the Russia (Sanctions) (EU Exit) Regulations 2019.

Aim:

To provide a practical framework for recognising the offences, understanding what the prosecution would need to prove, and identifying the evidential and legal issues likely to arise.

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SAMLA 2018 and Specific Regulations

The Russia Regulations sit within the UK's wider sanctions framework under the **Sanctions and Anti-Money Laundering Act 2018**.

Each regime, like Russia, Iran, or Counter-Terrorism, has its own regulations and licensing grounds, but they all share the same basic architecture; criminal liability arises when a person meets the elements of a given regulation.

Section 17(4) SAMLA empowers there to be regulations which create criminal offences.

The interconnection is structural and legislative under SAMLA but the offences and licensing rules are specific to each regime.

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Hypothetical:

- A UK company provides consultancy services to a foreign-owned business.
- The business pays its invoices through an intermediary.
- The intermediary is not itself sanctioned.
- The paperwork appears commercially respectable.
- But the beneficial ownership of the business leads back to a designated Russian individual.
- The payment has been made. The services have been provided. The parties may say that this was ordinary commercial activity.

Question: when does an apparently ordinary transaction become a criminal offence under the sanctions regime?

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The Framework of Regulations 11 to 15

- Five different offences but not five entirely separate worlds.
- They are five closely related prohibitions designed to protect the same essential principle: assets must not be dealt with, or economic value supplied in ways prohibited by the asset-freeze regime.

The differences between them matter, however, because a prosecution must identify the particular prohibition said to have been breached.

(Note similarities with regulations 15-19 of the Iran (Sanctions) Regulations 2023)

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The Structure of the offences

- Regulation 11 prohibits **dealing with funds** or economic resources owned, held or controlled by a designated person.
- Regulation 12 prohibits making funds available **to** a designated person.
- Regulation 13 prohibits making funds available **for the benefit of** a designated person.
- Regulation 14 prohibits making **economic resources** available to a designated person.
- And Regulation 15 prohibits making economic resources available to **another person** for the benefit of a designated person.

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Three Questions

You can think of the provisions as addressing three questions:

- First, are we dealing with an asset that **already belongs to**, is held by, or is controlled by a designated person? That is the territory of Regulation 11.
- Secondly, are we **transferring money to** a designated person, or supplying money in a way that benefits them? That takes us to Regulations 12 and 13.
- Thirdly, are we supplying **something other than money**, either directly to the designated person or for their benefit? That is the territory of Regulations 14 and 15.

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Regulation 11

In essence, a person must not **deal with funds or economic resources owned, held or controlled** by a designated person if they know, or have reasonable cause to suspect, that they are dealing with such funds or resources:

> "*11.—(1) A person ("P") must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.*"

Two features:

- First, the prohibition is not confined to transferring money out of a bank account. The concept of dealing with funds or economic resources is broader.
- Secondly, ownership is not the only relevant connection. Funds or resources may be held or controlled by a designated person even where the formal title, account name or immediate counterparty points elsewhere.

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Regulation 11(4) –'Deals With'

11(4) For the purposes of paragraph (1) a person "deals with" funds if the person—

(a) uses, alters, moves, transfers or allows access to the funds,

(b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or

(c) makes any other change, including portfolio management, that would enable use of the funds.

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Regulation 11(6)-Owned Held or Controlled

(6) The reference in paragraph (1) to funds or economic resources that are "owned, held or controlled" by a person includes, in particular, a reference to—

(a)funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;

(b)any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.

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Regulations 12 and 13- Making Funds Available

Regulations 12 and 13 shift the focus to making funds available:

- Regulation 12 concerns **making funds available**, directly or indirectly, to a designated person.
- Regulation 13 concerns making funds available to another person **for the benefit of** a designated person.

The distinction is important:

Under Regulation 12, the question is whether funds have been made **available to** the designated person.

An intermediary or a corporate structure does not necessarily prevent a transaction from falling within the prohibition and the indirect route must also be examined.

Under Regulation 13, the funds may be provided to someone else. The issue is whether that provision is **for the benefit of** the designated person.

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Regulation 13(4) 'Making funds available'

(4) For the purposes of this regulation—

(a)funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b)"financial benefit" includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

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Regulations 14 and 15: economic resources

Regulations 14 and 15 address economic resources rather than funds.

- Broadly speaking, economic resources are assets of a kind that can be used to obtain funds, goods or services. They can include tangible assets and other property with economic value. The statutory definition rather than any informal description, must be applied in a particular case.
- Regulation 14 concerns making economic resources available to a designated person, directly or indirectly.
- Regulation 15 concerns making economic resources available to another person for the benefit of a designated person. Here again, the statutory provisions address significant financial benefit and the relevance of ownership or control.

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Scope and Implications

- These regulations are a reminder that sanctions are not merely a system for blocking bank transfers.
- They are also designed to restrict access to economic value.
- For investigators, that can mean looking beyond banking records to contracts, property records, asset registers, communications, company structures and evidence about how an asset was used.
- For practitioners, it means being precise about the character of the property, the nature of the arrangement and the statutory basis on which the alleged prohibition applies.

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The Mental Element

- Regulations 11 to 15 use the formulation that the person **knows, or has reasonable cause to suspect**, the relevant circumstance identified by the particular prohibition.
- The prosecution does not necessarily have to establish an admission that the defendant knew every relevant fact. Nor is it enough simply to assert that a person ought, in a general sense, to have been more careful.
- The question is whether the applicable statutory test is proved on the evidence.

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Practical Challenges for Investigators and Lawyers

- First, identify the precise prohibition. Is the allegation dealing with frozen assets, making funds available directly, making funds available for someone's benefit, or making economic resources available? These are related but distinct routes to criminal liability.
- Secondly, follow the value. The relevant story may be spread across several accounts, companies, contracts and jurisdictions. A clear chronology and transaction map can be invaluable. Who supplied what? To whom? When? Under what arrangement? What was the economic effect?

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Practical Challenges for Investigators and Lawyers (2)

- Thirdly, distinguish ownership, control, receipt and benefit. They are not interchangeable concepts. A company may receive money without the evidence necessarily establishing every proposition alleged about its ultimate owner.
- Conversely, the absence of a direct payment to an individual does not resolve the question of benefit.
- Fourthly, analyse the evidence of state of mind in its proper context. Emails, compliance records, due-diligence material, advice and warnings may all matter. But they must be assessed with attention to what was actually communicated, understood and done at the relevant time.

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Exceptions and Licensing Conditions

- The prohibitions are subject to the relevant exceptions and licensing provisions in the Regulations. Any proper analysis must therefore examine whether an exception or licence applies to the particular conduct.
- It is not enough to identify a transaction that appears to fall within the general prohibition and stop there.
- For a prosecutor, there is a need to build a properly particularised case.
- For a defence practitioner, the aim will be to produce a framework for identifying gaps, alternative explanations and issues requiring closer examination.

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Regulation 46B of the Russia Sanctions

Regulation 46B. Luxury goods

(1) The export of luxury goods to, or for use in, Russia is prohibited.

(2) A person must not directly or indirectly—

(a) supply or deliver luxury goods from a third country to a place in Russia;

(b) make luxury goods available to a person connected with Russia;

(c) make luxury goods available for use in Russia.

(3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).

(4) A person who contravenes a prohibition in paragraph (2) commits an offence, but—

(a) it is a defence for a person charged with the offence of contravening paragraph (2)(a) to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Russia;

(b) it is a defence for a person charged with the offence of contravening paragraph (2)(b) ("P") to show that P did not know and had no reasonable cause to suspect that the person was connected with Russia;

(c) it is a defence for a person charged with the offence of contravening paragraph (2)(c) to show that the person did not know and had no reasonable cause to suspect that the goods were for use in Russia.

(5) In this regulation, "third country" means a country that is not the United Kingdom, the Isle of Man or Russia.

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Regulation 46B of the Russia Sanctions

Whether a person is "connected with" Russia is defined in reg.21(2) of the 2019 Regulations, which provides:

(2) For the purposes of this Part, a person is to be regarded as "connected with" Russia if the person is—

(a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,

(b) an individual who is, or an association or combination of individuals who are, located in Russia,

(c) a person, other than an individual, which is incorporated or constituted under the law of Russia, or

(d) a person, other than an individual, which is domiciled in Russia.

The offence under reg.46B is one of strict liability.

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Regulation 46B prosecution

R v Hauser & Wirth Gallery Ltd and Artay Rauchwerger Solomons Ltd [2026] EWCR 7

- Case prosecuted under Regulation 46B(2)(b) of the Russia (Sanctions) (EU Exit) Regulations 2019 – making luxury goods available to a person connected with Russia
- A piece of artwork was sold by H&W to an individual, Mr Popov, who was said to be connected with Russia.
- ARS is a fine art logistics company that was involved in the transportation of the artwork.
- It was alleged that between April 2022 and December 2022 H&W made available a luxury good to Mr Popov and between August 2022 and December 2022 ARS made available a luxury good to Mr Popov.

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Regulation 46B prosecution

Application to dismiss was made by the defence based on two issues:

(1) whether there is sufficient evidence that the artwork was "made available to" Mr Popov by H&W and ARS within the meaning of reg.46B(2)(b);

(2) whether there is sufficient evidence that, at the relevant time, Mr Popov was "ordinarily resident in Russia", and thus a person "connected with" Russia within the meaning of reg.46B(2)(b).

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Regulation 46B prosecution

The judge's ruling on 'made available to'

Taking the Prosecution's case at its highest, he was satisfied that a properly directed jury could properly conclude:

1. that H&W made the artwork available to Mr Popov by releasing it to him following sale; and

2. that ARS, by collecting and transferring the artwork pursuant to Mr Popov's instructions, participated in its making available.

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Regulation 46B prosecution

The Judge's ruling on 'ordinarily resident'

The Judge was satisfied that, taking the Prosecution's case at its highest, there was no sufficient evidential basis upon which a properly directed jury could properly conclude that Mr Popov was "ordinarily resident" in Russia in July 2022, in late August 2022, or in the intervening period.

Result

The case was dismissed as a result of this second element of the argument only.

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Regulation 46B prosecution

The impact of the ruling

Although this was a ruling in the Crown Court and thus is not binding on other courts, the definitions the Judge applied in respect of 'make available' and 'ordinarily resident' may assist both the prosecution and defence in respect of how these terms may be interpreted:

- Make available – the delivery of luxury goods to the recipient is not required and they need not be delivered within the geographical confines of Russia. It is not based on title alone, but on the combination of title, payment, constructive possession and practical ability to direct what should happen to the goods.
- Ordinarily resident - whilst for some purposes, an individual may be considered to be ordinarily resident in more than one country (such as for tax purposes), where an individual has left a country and made substantial efforts to cut his ties with that country for the foreseeable future, he is no longer ordinarily resident in that country.

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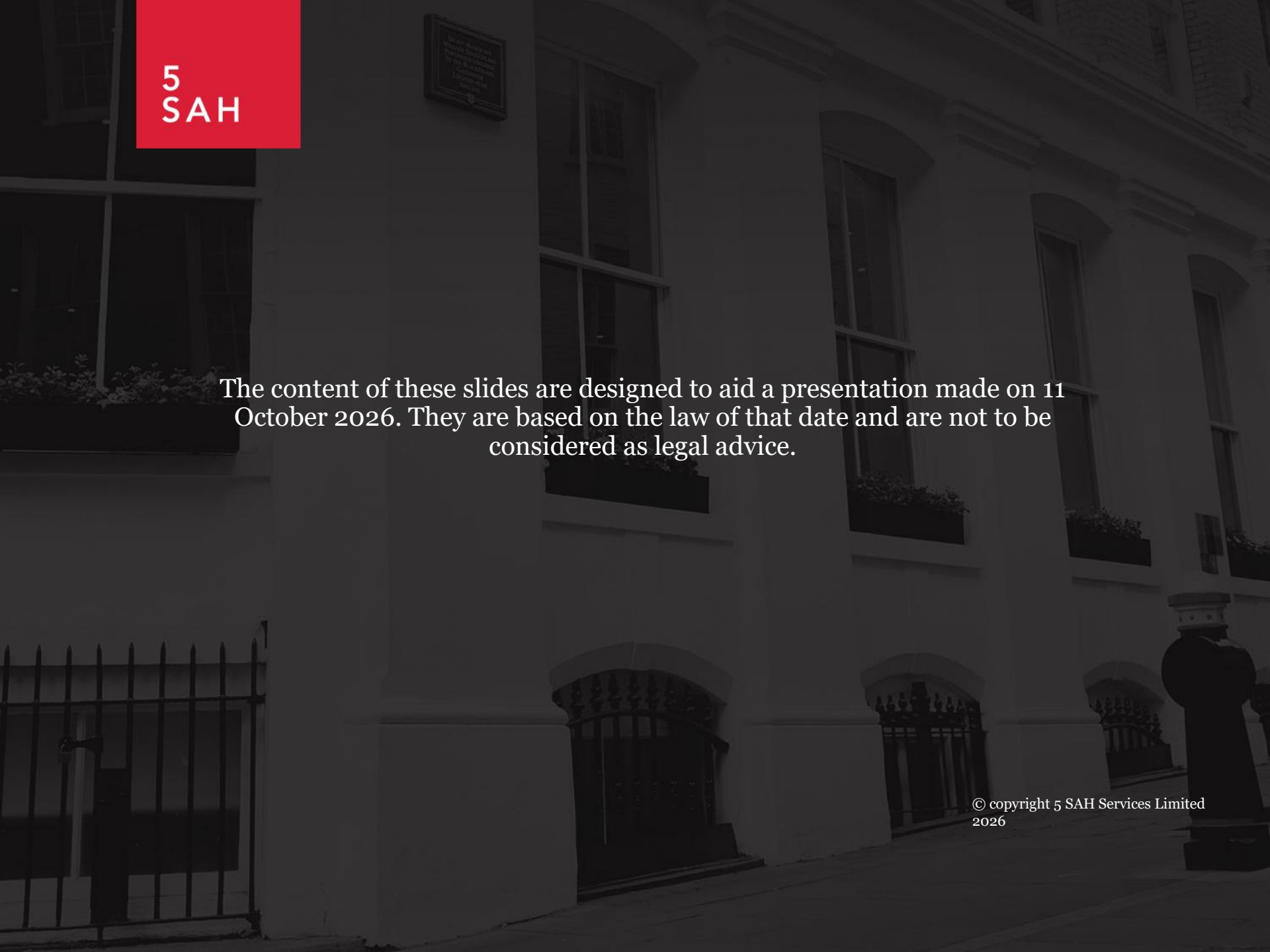
Thank you



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Kevin Dent KC

- *Kevin has considerable experience leading as a silk in cases of fraud, serious and organised crime. Recent high-profile cases have included:*
- *The £70M SFO Ethical Forestry investment fraud;*
- *The theft of the £4M golden toilet artwork by artist Maurizio Cattelan from Blenheim Palace;*
- *The fraudulent evasion of 2700 kilos of cocaine disguised as bananas, then the largest ever inland seizure of Class A drugs;*
- *The first prosecution for Conspiracy to Murder arising from encrypted En-crochat messaging evidence;*
- *The double murder in Bristol committed by two abattoir workers;*
- *A £36M carbon credit fraud and money laundering investigated by the City of London Police.*
- *Together with Danielle, Kevin has recently acted for the Crown in the first prosecution brought under Regulation 46B of the Russia (Sanctions) (EU Exit) Regulations 2019.*
- *Kevin is often instructed in financial cases involving multiple victims and is a sought-after leader in large-scale economic crime including cybercrime, investment fraud, bribery and corruption, green energy fraud, revenue evasion and money laundering.*

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Danielle Barden

- *Danielle was called in 2014 and is a specialist barrister instructed in sanctions, business crime, general crime and extradition cases. She is ranked in the Legal 500 and Chambers & Partners in Fraud and White Collar Crime, Crime and Extradition.*
- *Danielle has recently acted for the Crown in the first prosecution brought under Regulation 46B of the Russia (Sanctions) (EU Exit) Regulations 2019. She appears regularly in complex criminal matters including fraud, money laundering, robbery, sexual offences and drugs offences, both as a led junior and a junior alone. She appears for both the defence and prosecution and has achieved successful results for her clients in the Crown, Magistrates', Youth Courts and Court of Appeal.*
- *Danielle is also an experienced advocate in extradition. She exclusively appears on behalf of individuals who are requested for extradition. Danielle has broad experience of arguing complex legal issues, regularly involving human rights abuses, before the High Court and has successfully argued against the extradition of requested persons to a range of states.*