

EU sanctions Update

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EU-sanctions: into force as of 5 March 2014
Not lifted until today

Four different EU sanction regulations:

- Four different EU sanction regulations:
- Certain Ukrainian politicians of the former regime including Yanukovich;
- Russian and Ukrainian persons and companies having been involved in the transfer of Crimea to the Russian Federation (18 March 2014) and/or destabilizing Eastern-Ukraine;
- • A limited amount of Russian banks and oil companies, such as Rosneft and Sberbank (no gas companies);
- Ban on the so called double use goods to Russia: goods which can be used
- for military purposes;
- Ban on import and export from and to Crimea: a limited amount of goods and services (not everything) is sanctioned.

The Kerch bridge, connecting the brand new road from Russia to Crimea

New (since my presentation April 2017) and relevant:

- For entrepreneurs, doing business with Russia:
- September 2017: the Kertsj bridge scandal. Who reads the
- Gelderlander? “Hele brug naar Krim valt onder sancties EU”.
- <https://www.gelderlander.nl/rivierenland/hele-brug-naar-krim-valt-onder-sancties-eu~abb3c4a0/>
- <https://www.gelderlander.nl/rivierenland/nederlandse-bedrijven-bouwen-mee-aan-foute-brug-naar-de-krim~a335c8b5/>
- Small company in Doodewaard sold a drilling machine
- Ploumen announced an investigation. Until today: no news, no results.

The initial motivation of the EU placement of
mr. Rotenberg on the sanctionslist

How it went wrong with the Dutch entrepreneurs? The case Arkadi Rotenberg (1/2)

- Arkadi Rotenberg is at the sanction list since 30 July 2014 with the result: asset freeze
- and travel ban to the EU.
- • Oligarch with global structure of companies. In close relationship to the so called Russian
- decisionmakers, awarding him with profitable business.
- • Explanation of the case: mr Rotenberg have been included into the sanction list because
- of his feasibility study for the Kerch bridge. “Building that bridge will consolidate the
- integration from Crimea with Russia which undermines the territorial integrity of
- Ukraine”. So mr Rotenberg financially benefits from Russian decisionmakers who are
- destabilizing Ukraine.

How it went wrong with the Dutch entrepreneurs? The case Arkadi Rotenberg (2/2)

- The second year the sanctions have been prolonged because then mr. Rotenberg
- already started to built the brigde via his company: Stroygazmontazh.
- The third year the sanctions have been prolounged for the same reason + because then
- mr. Rotenberg facilitated also a project: “To the children of Crimea. Address: Crimea”
- with publishing house Prosvesjenije. Detail: the children of Assad spent last summer
- their holidays at the famous Artek holiday resort for children at Crimea.

Mr. Rotenberg sent his lawyers to the court of Justice in Luxemburg

In a nutshell: grounds for the procedure in Luxembourg:

- Infringement of fundamental rights, such as (but not limited): the right to property and the freedom to conduct business.
- The court decided: “In the present case, in the light of the importance of the objectives pursued by the restrictive measures at issue, the adverse consequences of their application to the applicant are not manifestly disproportionate.” (nr. 180). Personal opinion: “the end justifies the means.”
- As regards the necessity of the restrictive measures at issue, it should be noted that alternative and less restrictive measures, such as a system of prior authorization or an obligation to justify, a posteriori, how the funds transferred were used, are not as effective in achieving the objectives pursued, namely bringing pressure to bear on Russian decision-makers responsible for the situation in Ukraine, particularly given the possibility of circumventing the restrictions imposed (nr. 182). Personal opinion: “everything is allowed for the higher purpose”.

Moraal van het verhaal

(The meaning of this story)

- For EU entrepreneurs such as the company from Doodewaard: they have to check at forehand the whole structure of companies (UBO) also if the person is not a PEP, followed by the EU sanctions list check before signing a contract;
- The EU entrepreneur has to check the relevant jurisprudence of the Court of Justice in Luxemburg...theoretically it can happen that a person on the sanction list wins the procedure in Luxemburg with the result of delisting (retroactive). Example: Portnov (Ukraine);
- The EU can ad hoc decide that a certain person or company is “in close relationship to the Russian decisionmakers”, who are at their turn destabilizing Ukraine – bingo! Impressive recent US example: Rusal.
- Personal opinion: The Russians are: bird-free.

Mr. Rotenberg, nr. 200 Forbes list with an
estimated
capital of \$2600 million (2017)

Questions/remarks?

СПАСИБО ЗА ВНИМАНИЕ

Time for drinks/ Время для дегустации
русской водки