

Asset freeze under European Union Law

European Union (“EU”) has so far implemented 6 series of sanctions against Russia following the invasion from Ukraine on February 24, 2022, mainly consisting in (i) individual sanctions, (ii) economic sanctions and (iii) diplomatic measures.

Asset freeze is one of the major individual measures implemented, based upon Council Regulation (EU) No 269/2014 of 17 March 2014.

Regulation 269/2014 implements measures to (i) freeze assets and resources belonging to, owned, held or controlled by any natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, listed in an Annex I and to (ii) prevent that funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them as listed in this Annex I.

It directly refers to the two relevant criteria of “ownership” and “control”.

Council of EU sanctions guideline, published on May 4, 2018 states that “ the criterion to be taken into account when assessing whether a legal person or entity is owned by another person or entity is the possession of more than 50 % of the proprietary rights of an entity or having majority interest in it. If this criterion is satisfied, it is considered that the legal person or entity is owned by another person or entity.”

So, it is to understand that the asset freeze sanction applies to an entity/legal person, if a person listed in Annex I has more than 50 % of the proprietary rights or has majority interest in it.



The EU guidance also defines the criteria to be taken into account when assessing whether a legal person or entity is controlled by another person / entity, resulting from Council Regulation N° 2580 of 27 December 2001.

Regulation 2580 sets up 8 criteria namely related to the power to appoint or remove a majority of the members of the administrative, management or supervisory body, the control of a majority of shareholders' or members' voting rights, the exercise of a dominant influence over a legal person/entity, with or without being the holder of any right, the right to use all or part of the assets of a legal person/entity, the management of the business of a legal person/entity on a unified basis, while publishing consolidated accounts and to the fact of having financial liabilities of a legal person / entity, or guaranteeing them.

If any of the listed criteria are satisfied, it is considered that the legal person or entity is controlled by another person/entity, so that the asset freeze sanction will possibly apply to the entity/legal person, with a possibility to establish the contrary, on a case by case basis.

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