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By: Gordana Grgas

## EU never mentions subsequent approval for transactions

What exactly do the EU Regulations say about sanctions

**Given that the key question is currently whether due to the sanctions the Arabian investor will be able to actually get Sberbank's share in Fortenova that he allegedly paid EUR 500 million for, we have checked what the regulations and decisions adopted this summer by the EU say about that.**

First of all, this includes the Council Regulation dated 21<sup>st</sup> July, amending the former regulations regarding the restrictive measures related to activities that undermine or jeopardize the territorial integrity, sovereignty and independence of Ukraine. In other words, this is the seventh round of European sanctions against natural and legal persons from Russia, with Sberbank explicitly listed under No. 108 in Annex I. They are subject to the freeze of all assets and economic resources.

However, at the same time some possibilities of derogation from the freezing have been adopted as well.

Applying to Sberbank is Article 1 of the Regulation 2022/1273, published in the Official Journal of the EU, that reads, and we quote, that "the competent authorities of a Member State may, under such conditions as they deem appropriate, authorise the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources to the entity listed under entry number 108 in Annex I, after having determined that the funds or economic resources are necessary for the completion, by 31 October 2022, of an ongoing sale and transfer of proprietary rights directly or indirectly owned by that entity in a legal person, entity or body established in the Union."

While we are waiting for the official interpretations related to the specific transaction between the Arabian investor and Sberbank, based on this Regulation we can conclude that the share held by the sanctioned Russian bank in Fortenova shall be frozen as long as the competent authorities of the Member State (the Netherlands, and maybe also Croatia) do not approve the release, and the deadline for that has expired. In other words, without such approval, all funds and economic resources shall remain frozen and cannot be disposed of or used. There is no mention anywhere whether this can be approved subsequently or whether the deadline can be extended.

Here is how the European Regulations defines the mentioned terms:

"Funds" are financial funds, including securities, "economic resources" are assets of any kind, whether tangible or intangible, movable or immovable, that do not represent funds, but can be used to obtain funds, goods or services.

The freezing of economic resources means "preventing the use of economic resources intended to acquire funds, goods or services in any way whatsoever, including sales, lease or putting under mortgage".

The freezing of funds means “preventing any relocation, transfer, change or use of funds, access to funds or operating with funds in any way whatsoever, the consequence whereof would be any change in their scope, amount, location, ownership, possession, character, destination or any other change that would enable the use of the funds, including portfolio management”.

When Sberbank was put on the sanctions list under the number 108 in July, it was stated that this was a large financial institution with the Russian central bank as the majority owner.