

EU sanctionsUpdate

Presentation at the Royal Industrieele Groote Club.

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Mrs. Heleen M.A. over de Linden

(PhD candidate at Groningen University)

For more information:

info@rechta.com



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



Four different EU sanction regulations:

SANCTIONS

- Certain Ukrainian politicians of the former regime including Yanukovych;
- 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 oilcompanies, such as Rosneft and Sberbank (no gaz 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), 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.

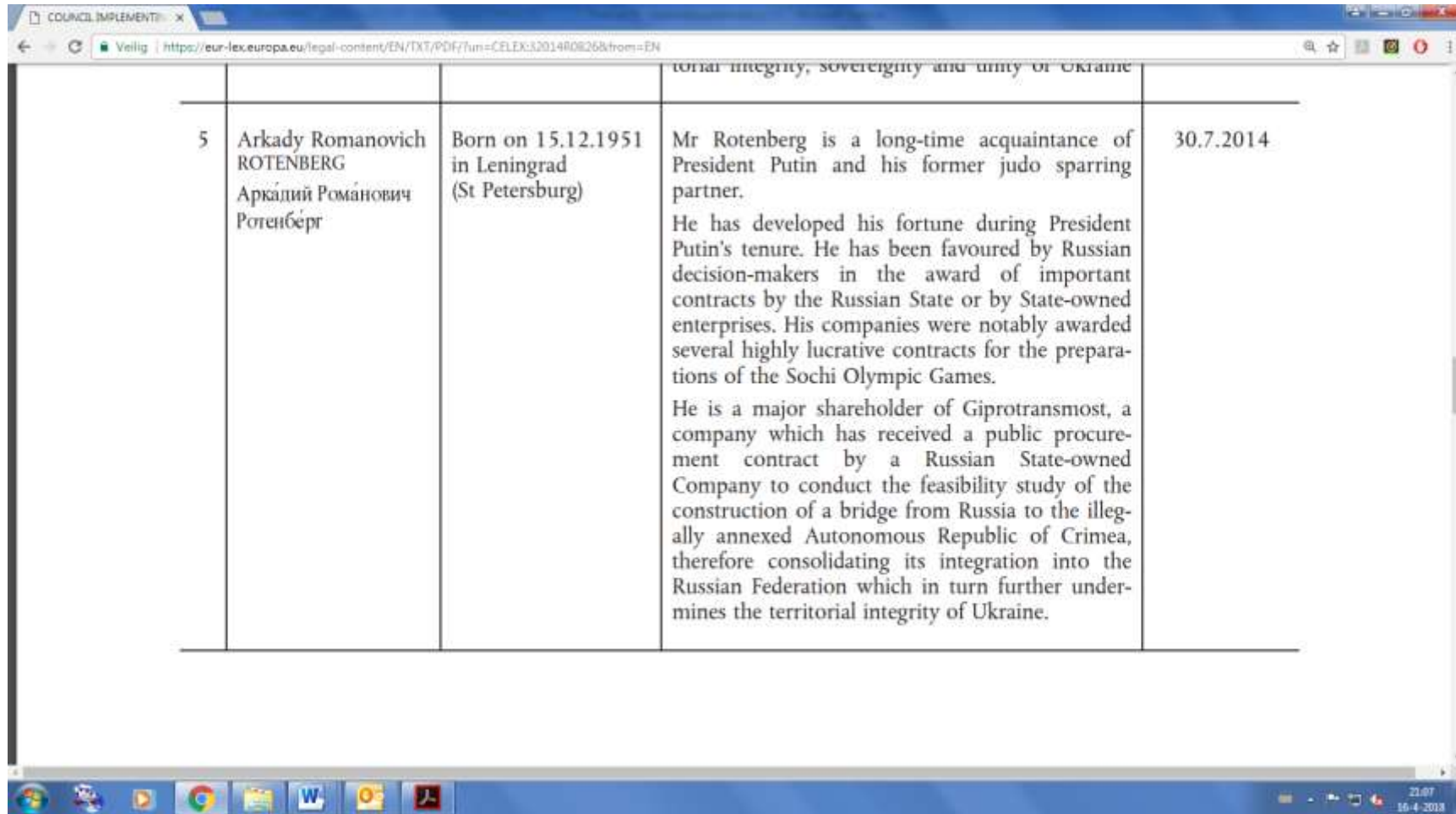
On the left Rotenberg (several years ago),
with his judopartner Putin



How it went wrong with the Dutch entrepreneurs? *The case Arkadi Rotenberg*

- Arkadi Rotenberg is at the sanction list since 30 July 2014. Result: asset freeze and travel ban to the EU. (Same in the US, incl. his brother Boris, and since 6 April 2018 also his son Igor).
- 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.
- The second year the sanctions have been prolonged because then mr. Rotenberg already started to built the bridge via his company: **Stroygazmontazh**.
- The third year the sanctions have been prolonged 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.

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



The screenshot shows a web browser window with the address bar displaying "https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0826&from=EN". The browser window contains a table with the following content:

			territorial integrity, sovereignty and unity of Ukraine	
5	Arkady Romanovich ROTENBERG Аркадий Романович Ротенберг	Born on 15.12.1951 in Leningrad (St Petersburg)	<p>Mr Rotenberg is a long-time acquaintance of President Putin and his former judo sparring partner.</p> <p>He has developed his fortune during President Putin's tenure. He has been favoured by Russian decision-makers in the award of important contracts by the Russian State or by State-owned enterprises. His companies were notably awarded several highly lucrative contracts for the preparations of the Sochi Olympic Games.</p> <p>He is a major shareholder of Giprottransmost, a company which has received a public procurement contract by a Russian State-owned Company to conduct the feasibility study of the construction of a bridge from Russia to the illegally annexed Autonomous Republic of Crimea, therefore consolidating its integration into the Russian Federation which in turn further undermines the territorial integrity of Ukraine.</p>	30.7.2014

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 to): 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 authorisation 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)

200 БОГАТЕЙШИХ БИЗНЕСМЕНОВ РОССИИ / АРКАДИЙ РОТЕНБЕРГ

Аркадий Ротенберг

#39 **\$2600 млн**

Рейтинг «200 Богатейших бизнесменов России 2017»

Профайл

Дата рождения
15.12.1951

Место рождения
Санкт-Петербург

Семейное положение
разведен, пятеро детей

Должность
Генеральный директор спортивного клуба дзюдо «Явара-Нева»

Образование
Ленинградский институт физической культуры (1978)

Активы
Группа СГМ | СМП Банк | Минудобрения

Количество детей

39 место	2017 год	\$2600 млн
#75 место	2016 год	\$1000 млн
#60 место	2015 год	\$1400 млн
#27 место	2014 год	\$4000 млн

Practical information

- “At the end of the year 2014 the list of Russian and Ukrainian individuals and entities subject to a travel ban and an asset freeze stood at **132** persons, including persons providing support to or benefitting Russian decision-makers, and **28** entities.”
- **More practical information:**
- <https://www.rijksoverheid.nl/onderwerpen/internationale-sancties>
- <https://www.rvo.nl/onderwerpen/internationaal-ondernemen/landenoverzicht/rusland/ondernemersloket-sancties-rusland>
- **Enforcement bodies:** DNB, AFM, CDIU (centrale dienst in-, en uitvoer) OM/Belastingdienst and I&M (nowadays: I&W: Infrastructuur en Waterstaat).
- CDIU for import and export licences.

Russian entities subject to the EU sanctions

- ROSNEFT
- TRANSNEFT
- GAZPROM NEFT
- OPK OBORONPROM
- UNITED AIRCRAFT CORPORATION
- URALVAGONZAVOD
- SBERBANK
- VTB BANK
- GAZPROMBANK
- VNESHECONOMBANK (VEB)
- ROSSELKHOZBANK
- JSC Sirius
- OJSC Stankoinstrument
- OAO JSC Chemcomposite
 - JSC Kalashnikov
- JSC Tula Arms Plant NPK Technologii Maschinostrojenija
 - OAO Wysokototschnye Kompleksi
 - OAO Almaz Antey
 - OAO NPO Bazalt
- (There is also an Ukrainian list of Crimean and Eastern-Ukraine entities).

Questions/remarks?
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