



ARTICLE

INDIVIDUAL RESTRICTIVE MEASURES - REGULATION (EU) NO 2023/1089 OF 5 JUNE 2023 AMENDING REGULATION (EU) NO 269/2014

European Law | 07/06/23 | Olivier Attias



As part of our regulatory monitoring, we draw your attention to the adoption on 5 June 2023 of Regulation (EU) No 2023/1089 by the Council of the European Union amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

Key takeaways:

- This new Regulation **amends** Article 3(1)(g) of Regulation (EU) No 269/2014. As a reminder, Article 3(1) lists the criteria considered for listing natural and legal persons under the asset freeze measures taken as part of the sanctions against Russia.
- It significantly **expands the personal scope** of the Regulation. It is now possible for the European Union to add to the list of sanctioned individuals and entities **(i) leading businesspersons operating in Russia, (ii) their immediate family members, or other natural persons, benefitting from them**. It's a comprehensive criterion, notably because it does not appear to be directly linked to any tangible benefits for Russia's war economy.
- In addition, the Regulation **amends** the wording of the existing criterion given by Article 3(1)(g) by no longer referring solely to leading businesspersons, but to **all "businesspersons (...) involved in economic sectors that provide a substantial source of income to the government of the Russian Federation"**.
- It takes effect on **Wednesday, June 7, 2023**.

Therefore, the changes introduced by Regulation (EU) no. 2023/1089 provide the European Union with the capacity to impose sanctions on a broad spectrum of parties.

In practice, these new criteria may make it difficult to anticipate who may be subject to future sanctions, and we therefore recommend increased vigilance and close monitoring of updates to the list of persons subject to asset freeze measures in Annex 1 to Regulation (EU) no. 269/2014.

As a reminder :

- Regulation (EU) No 269/2014 introduces individual restrictive measures such as asset freezes and restrictions on entry to EU territory.
Persons and entities subject to these restrictive measures are listed in Annex I.
- Currently, Article 3(1)(a) to (h) of Regulation (EU) No 269/2014 sets out the criteria for the inclusion of natural, or legal persons, entities or bodies on the list provided for in Annex I, as follows:
 - a. natural persons responsible for, supporting or implementing actions or policies which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine, or stability or security in Ukraine, or which obstruct the work of international organisations in Ukraine;
 - b. legal persons, entities or bodies supporting, materially or financially, actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine;
 - c. legal persons, entities or bodies in Crimea or Sevastopol whose ownership has been transferred contrary to Ukrainian law, or legal persons, entities or bodies which have benefited from such a transfer;
 - d. natural or legal persons, entities or bodies supporting, materially or financially, or benefiting from Russian decision-makers responsible for the annexation of Crimea or the destabilisation of Ukraine;
 - e. natural or legal persons, entities or bodies conducting transactions with the separatist groups in the Donbas region of Ukraine;
 - f. natural or legal persons, entities or bodies supporting, materially or financially, or benefitting from the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine;
 - g. **leading businesspersons or legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine; or**



h. natural or legal persons, entities or bodies facilitating infringements of the prohibition against circumvention of the provisions of this Regulation, of Council Regulations (EU) No 692/2014, (EU) No 833/2014 or (EU) 2022/263 or of Council Decisions 2014/145/CFSP, 2014/386/CFSP, 2014/512/CFSP or (CFSP) 2022/266

- Are also included natural or legal persons, entities or bodies associated with the entities referred to in Article 3(1) of Regulation (EU) No. 269/2014.

The amendment to Article 3(1)(g) of Regulation No. 269/2014:

- Article 1 of Regulation (EU) No 2023/1089 published in the Official Journal of the European Union this Tuesday 6 June 2023 amends the wording of Article 3(1)(g) of Regulation (EU) n° 269/2014 as follows:

“leading businesspersons operating in Russia and their immediate family members, or other natural persons, benefitting from them, or businesspersons, legal persons, entities or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation, which is responsible for the annexation of Crimea and the destabilisation of Ukraine”

- This amendment significantly broadens the personal scope of Article 3(1)(g). It is now possible to add to the list of entities subject to sanctions:

- i. leading businesspersons **operating in Russia** and,
- ii. their immediate family members, or other natural persons, benefitting from them
without it being necessary to identify a clear benefit for Russia's war economy from their activity.

- Furthermore, the criterion set out by Article 3(1)(g) of Regulation No. 269/2014 initially referring to "*leading businesspersons*" has been amended in favor of a broader formulation including now **any**:

- iii. **businesspersons**, legal persons, entities, or bodies involved in economic sectors providing a substantial source of revenue to the Government of the Russian Federation.

without it no longer being necessary to identify any particular influence held by these businesspersons.
