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Putin's Response to EU Sanctions: See You in Court

Відповідь на санкції: побачимося в суді

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Боротьба, що розгорілася навколо санкцій проти Росії, переходить в суд. З початку жовтня, принаймні, шість російських компаній - в тому числі державна нафтова група «Роснефть» і два найбільших російських банки - подали скарги до Європейського суду загальної юрисдикції. Те ж саме зробив друг російського президента Володимира Путіна і олігарх Аркадій Ротенберг. Всі вони наполягають на скасуванні санкцій Євросоюзу.

The fight over Russian sanctions is heading to court. Since early October at least six Russian companies—including state oil group Rosneft (ROSN:RM) and the country's two biggest banks—have filed complaints at the Luxembourg-based European General Court. So has President Vladimir Putin's oligarch friend Arkady Rotenberg. All of them are seeking to overturn European Union sanctions.

They have some reason for optimism. The EU court has previously thrown out sanctions against several Iranian entities and individuals. In those cases, the court found European authorities didn't provide sufficient evidence linking the sanctioned entities to Tehran's nuclear program and didn't give them an adequate chance to respond before imposing asset freezes and other punishment.

Sarosh Zaiwalla, a London lawyer who has helped Iran's Bank Mellat challenge sanctions, said in an interview that he's now representing some of the targeted Russian entities. He declined to name them or discuss details of the Russian complaints, which haven't been made public.

Besides Rosneft, the Russian complainants at the Luxembourg court are an oil-production subsidiary of government gas company Gazprom (GAZP:RM) and four state-controlled banks: Sberbank (SBER:RM) and VTB Bank (VTBR:RM), the country's first- and second-largest banks, respectively, as well as economic-development bank Vnesheconombank and its Ukrainian subsidiary, Prominvestbank. All have been barred from raising long-term financing in European capital markets. The energy companies also face restrictions on technology imports. Rotenberg, a billionaire businessman who was hit by an EU asset freeze, has filed two separate challenges in Luxembourg.

Sanctions challenges are more likely to be filed in Europe than in the U.S. because European courts rarely allow governments to present classified evidence under seal, which can make it difficult to explain the rationale for sanctions, says Mark Dubowitz of the Washington-based Foundation for Defense of Democracies. Dubowitz, whose group has lobbied for tough sanctions against Iran, says he knows of no case in which Iranian sanctions have been successfully challenged in the U.S. By contrast, he says, European courts have annulled sanctions in nine Iranian cases so far. In most instances the EU has said it plans to reimpose the sanctions, backing them with stronger justifications.

If sanctions remain in place during lengthy court appeals, the Iranians—and possibly the Russians, too—might not get much satisfaction from initial court victories unless they ultimately win substantial financial damages. A key test case in that regard could be Iran's Bank Mellat, which has won a ruling from the U.K. Supreme Court and now is trying to recover \$4 billion from the British government, which barred the bank from doing business in Britain in 2009. Britain's high court, which reviewed some classified evidence in the case that was not released publicly, ruled last year that the sanctions against the bank were based on "misconceptions about the facts."

Bank Mellat also won an initial ruling from the Luxembourg court that's now being appealed to the European Court of Justice, which is also based in Luxembourg and is the EU's highest court. Zaiwalla, the bank's lawyer, says European governments falsely claimed that the bank, which is private, was "an arm of the state of Iran."

Proving links between the Kremlin and the sanctioned Russian companies might be easier, since the government holds controlling stakes in all of them. What's less clear is how the EU would link the companies to Russia's actions in Ukraine, which triggered the sanctions earlier this year. The EU says the sanctions are intended to punish Russia for its "illegal annexation of Crimea and deliberate destabilization" of Ukraine.