

Rödl & Partner

NEWSLETTER BELARUS

BUILDING BRIDGES

January
2024

Ongoing restrictions and procedure for sale of
businesses from “unfriendly countries”

www.roedl.com/belarus



Content of this issue:

- Summary
- Background
- Current restrictions
- Obtaining the Clearance
- To-do steps

→ Summary

- As from October 2023 in the Republic of Belarus:
- all the Belarusian companies having shareholders from “unfriendly countries” fall under restrictions for market exit
 - the sale of real estate has been prohibited for Belarusian companies, where the shareholders from “unfriendly countries” hold at least 25 percent shares. Thus, the “asset deals” are no longer an option for the market exit, if a Belarusian subsidiary owns real estate in Belarus
 - the sale of shares and real estate for the companies, covered by the restrictions, is possible subject to:
 - one-time governmental clearance (the “Clearance”); and

- payment of at least 25 percent of the market value of a share/real estate to be disposed.

The companies, earlier included into the special list of restricted entities, were directly entitled to apply for such Clearances.

At the same time the procedure for obtaining the Clearances has not been defined by laws for a long period. Finally, in January 2024 the Government set the procedure for issuing the Clearances, thus providing an opportunity for businesses from “unfriendly countries” to exit the market.

→ Background

On 14 March 2022 the President of the Republic of Belarus signed its Edict No. 93 (the “**Edict 93**”), which became the primary “countersanctions law” in the Republic of Belarus. The Edict provides for several restrictions for persons from so called “unfriendly countries”.

“Unfriendly countries”	
EU member states, UK	USA
Norway	Canada
Switzerland	Australia
New Zealand	Iceland
Albania	North Macedonia
Montenegro	Lichtenstein

In order to implement the Edict 93 the Government adopted the List of Belarusian entities, which shareholders from “unfriendly countries” were restricted from disposal of shares they hold (the “**List**”).

The List included ca. 1800 Belarusian entities as well as their shareholders from

“unfriendly countries”. Such shareholders were therefore prohibited from:

- disposal of shares (including their sale)
- withdrawal from shareholding.

In addition, the Belarusian companies included into the List could not be reorganized.

In the meantime on 21 October 2023 the Edict of the President No. 326 (the “**Edict 326**”) was officially published, thus amending the Edict 93. The Edict 326 expanded:

- the scope of restrictions; as well as
- the number of companies they affect

Subsequently the Government has officially published its Resolution No. 27 of 12 January 2024 “On issuance of clearances” (the “**Resolution 27**”), which established the procedure for obtaining the Clearance for performance of several transactions by businesses from “unfriendly countries”.

Below please find the overview of key ongoing restrictions related to the sale of assets in Belarus by businesses from “unfriendly countries”.

→ Current restrictions

Restricted transactions

In virtue of clause 2.13 of the Edict 93 the businesses from “unfriendly countries” should obtain the Clearance of the Government (Council of Ministers) for performance of the following transactions:

1. Disposal by shareholders of Belarusian legal entities from “unfriendly countries” (hereinafter – the “**Foreign shareholders**”) of shares/stocks in Belarusian companies.



2. Disposal of real estate by:
 - Belarusian companies, where the Foreign shareholders hold at least 25 percent shareholding; as well as

- Belarusian unitary enterprises incorporated by the persons from “unfriendly countries”.

3. Reorganization of Belarusian companies having the Foreign shareholders.
4. Withdrawal of the Foreign shareholders from Belarusian companies.

Companies affected

It shall be noted that earlier the restrictions were applied merely with respect to the companies included into the List.

As it stands the List has been cancelled and the aforesaid restrictions apply to all Belarusian companies connected with the “unfriendly countries”.

Please note

One of the preconditions for transactions as listed in clauses 1 and 2 above provides for the payment of a contribution to the budget in the amount of at least 25 percent out of the market value of the shares/stocks/real estate to be disposed. The respective appraisal should be performed by a specialized state agency.

→ Obtaining the Clearance

The procedure for obtaining the Clearance for sale of assets has not been defined for a long time since the adoption of the Edict 326. In the meantime the Government has officially published its Resolution No. 27 of 12 January 2024 “On issuance of clearances” (the “**Resolution 27**”), which finally established the procedure for obtaining the Clearance.

Pursuant to the Resolution 27 in order to obtain the Clearance a shareholder of a Belarusian company shall apply to the regional/Minsk city executive committee (the “**Executive committee**”).

The Resolution 27 stipulates the list of information and documents to be submitted along with the application. For example, in case of an eventual sale of shares in a Belarusian company by an “unfriendly shareholder” such shareholder shall

submit to the Executive committee the following documents:

- overview of the target company, information about its activity, balance sheet, P&L statement
- copy of the appraisal report on market value of the “target shares” to be compiled by a certified state appraiser
- duly legalized excerpt from the commercial register with respect to the seller of the “target shares”
- information about the potential purchaser of the “target shares”

The list is not exhaustive as the Executive committee can request further documents.

The Executive committee shall review the documents submitted within 30 business days.

In case of a positive result the Executive committee:

- shall define the amount of a contribution, the deadline for its payment; and
- shall forward a resolution to superior authorities.

The final stage formalising the issuance of the Clearance contemplates the adoption of the Resolution of the Government (Council of Ministers). In case the Clearance is issued, then:

- the contribution shall be paid within the payment deadline set by the Executive Committee; and
- the transaction can be “closed” and the amendments to the Articles of Association of the target company shall be registered, thus reflecting the sale of “target shares”

The issued Clearance shall be valid for one year.

→ To-do steps

As it stands, the laws significantly restrict possibilities for the market exit for the businesses from “unfriendly countries”. Please also consider, that performance of the aforesaid transactions without the governmental Clearance results in their voidance.

At the same time, in January 2024 the tool of one-time Clearances was finally adopted and can be enjoyed by the businesses from “unfriendly countries”.

Based on the procedure for obtaining the Clearance and given the period required to

compile and prepare the necessary documents, the entire process of obtaining such Clearance on a turnkey basis can take at least **three months**. Therefore, it is expedient for businesses intending to sell their assets in Belarus to apply for the Clearance as soon as possible.

We would be glad to assist you respectively as well as provide you with further information regarding new regulations.

Contact for further information



Yuriy Kazakevitch
Associate Partner
Head of legal services
T +375 17 2424 284
M +375 29 6218 974
yuriy.kazakevitch@roedl.com

Sign up for our LinkedIn page for news and updates: [Rödl & Partner Belarus »](#)

Imprint

Publisher:
Rödl & Partner
Ul. Rakovskaya, 16B-5H
220004 Minsk, Belarus
T +375 17 2424 284
minsk@roedl.com
www.roedl.de/belarus
www.roedl.com/belarus

Responsible for the content:
Yuriy Kazakevitch
yuriy.kazakevitch@roedl.com

Layout/Type:
Yuriy Kazakevitch
yuriy.kazakevitch@roedl.com

This article is a non-binding information offer and serves general information purposes. It does not constitute legal, tax or business advice, nor can it replace individual advice. Rödl & Partner always endeavours to exercise the greatest possible care in the preparation of the article and the information contained therein, but Rödl & Partner is not liable for the correctness, up-to-dateness and completeness of the information. The information contained herein does not refer to any specific circumstances of an individual or legal entity, therefore professional advice should always be sought in a specific individual case. Rödl & Partner accepts no responsibility for decisions made by the reader on the basis of this articles. Our contact persons will be happy to assist you.

The entire content of the article and the technical information on the Internet is the intellectual property of Rödl & Partner and is protected by copyright. Users may download, print or copy the contents of the guide only for their own use. Any changes, duplication, distribution or public disclosure of the content or parts thereof, whether online or offline, require the prior written consent of Rödl & Partner.