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Ukraine: Sense Bank nationalised

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On 22 July, the National Bank of Ukraine announced that the state treasury had successfully taken over Sense Bank and appointed its new management board. According to the central authorities in Kyiv, in particular President Volodymyr Zelensky, the whole operation was carried out smoothly, did not infringe on the customers' rights and did not undermine the stability of the Ukrainian banking system. It was carried out on the basis of an act passed by the Ukrainian parliament on 29 May 2023, which enabled the state to nationalise, during martial law, any bank whose owners have been put on both Ukrainian and Western sanctions lists. The act had been specially prepared to enable the state to take over Sense Bank, and was signed by the president on 16 June.

Sense Bank (which operated under the name Alfa-Bank until 30 November 2022), with assets of almost 100 billion hryvnias (around $2.7 billion) in April 2023, was ranked 10th on the list of Ukraine's biggest banks. Its main shareholders were Russian citizens Mikhail Fridman and his business partners Pyotr Aven and Andrei Kosogov (in October 2022 all of them were put on Ukrainian sanctions lists). Fridman was born and raised in Lviv and holds Russian and Israeli citizenship and UK resident status. He is considered one of the richest Russian oligarchs and an influential representative of Russian business which operated in Ukraine in previous years. Prior to the outbreak of the war, Fridman concentrated his assets in Alfa Group and the LetterOne capital groups. As their founder and principal shareholder he also held stakes in other companies operating in Ukraine, including the Kyivstar mobile operator and IDS Ukraine which is involved in the production of Morshynska and Myrhorodska mineral water.

Commentary

- The takeover of Sense Bank's assets was a difficult task because of its size and market position. It seems that in the first months of the war the Ukrainian authorities chose not to take decisive actions against Fridman and his business partners, fearing panic among the bank's customers and disruption to the entire banking system. The situation did not change in autumn and winter either, because Kyiv was unable to implement the necessary legal and institutional solutions to enable an effective and safe takeover of this bank. It was only when the act of 29 May was enacted and came into effect that the problem was solved. At the same time, the act established a legal framework for the process of confiscation and nationalisation of Russian assets in Ukraine.

- In 2022 Ukraine launched efforts to create a legal framework to enable the takeover of Russian assets and their transfer to the state budget. While the nationalisation of companies which belonged directly to the Russian state proceeded smoothly (there were very few such instances and they were of minor importance), the confiscation of assets owned by companies and individuals accused of supporting the Russian aggression against Ukraine posed a much bigger challenge to Kyiv. This confiscation is carried out in court: first an investigation is carried out by the special services, then the Ministry of Justice prepares the relevant motion on the basis of this investigation, and then the matter is referred to the High Anti-Corruption Court of Ukraine. So far, only a portion of the assets owned by Russian oligarchs has successfully been taken over by the Ukrainian state, mainly because the proceedings are legally complex and the Ukrainian state administration bodies are not prepared to implement the sanctions policy.

- Prior to 24 February 2022, Russian capital did not play an important part in Ukraine's economic life. The post-2014 period saw a major decrease in its presence in Ukraine – some Russian companies and investors withdrew from the Ukrainian market, while others registered their stakes in someone else's name, most often that of frontmen and shell companies (such as Rosneft and Lukoil). At the beginning of 2022, Russian businessmen controlled around fifty large and medium-sized companies operating in the finance, energy and service sectors, as well as in the foodstuffs, chemical and metallurgical industries. None of these companies had the status of a systemically important enterprise. Sense Bank was an exception because its market position had grown consistently over recent years, which, it appears, happened by tacit agreement on the part of the Ukrainian authorities. Aside from Fridman and his business partners, the owners of the biggest assets included Oleg Deripaska (a metallurgical plant in Mykolaiv), the Rotenberg family (the Ocean Plaza shopping centre in Kyiv) and members of the so-called Luzhniki group (Aleksandr Babakov, Yevgeni Giner and Mikhail Voyevodin, who are considered the actual owners of five regional electricity distribution companies and a hotel chain).