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Russia's war in Ukraine: a review of legal acts
relevant for business

May, 2022

Russia's war in Ukraine has prompted an unprecedented reaction of countries all over the world – economic sanctions and other restrictive measures to Russian and Belarusian entities. Lithuanian companies having business or other business relationships in those countries feel the impact of these measures, too. Currently, for such companies, various legal issues arise, such as termination of business or transfer of activities, performance of agreements etc., therefore this newsletter will help you follow the legislation or its amendments important for business in Europe, Lithuania, Ukraine, Russia and Belarus.

EU response to Russia's war in Ukraine

- First [package](#) of sanctions.
 - Second [package](#) of sanctions.
 - Third [package](#) of sanctions.
 - Fourth [package](#) of sanctions.
 - Fifth [package](#) of sanctions.
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The fifth package of sanctions

- The fifth package of sanctions includes the following: (i) prohibition to acquire, import or transfer to the EU coal and other solid fossil fuels if its country of origin is Russia or it is exported from Russia; (ii) prohibiting all Russian vessels from access to EU ports; (iii) prohibiting Russian and Belarusian road transport operators from arrival in the EU; (iv) prohibition to import wood, cement, seafood and alcoholic beverages from Russia; (v) prohibition to export jet fuel and other goods to Russia; (vi) prohibiting Russian companies from participation in public procurement held in Member States; (vii) decision not to provide any financial support to institutions of Russia's public sector etc.
- The fifth package of sanctions includes the prohibition for Russia-based legal entities and individuals to participate in public procurement of EU Member States. Furthermore, the prohibition extends to ongoing public procurement agreements, too, obligating contracting authorities to terminate such agreements.

The EUR 2 billion resilience **package** of the European Bank of Reconstruction and Development

Financing is provided to:

- private clients, states, municipalities, state and municipal companies and institutions and financial intermediaries;
- in Ukraine, states mostly affected by inflows of refugees, i.e. in Poland, Hungary, Slovakia, Croatia, Czech, Estonia, Latvia, Lithuania, Slovenia, Romania, Bulgaria, Moldova;
- in Ukraine (to all economic sectors): (i) energy security; (ii) basic infrastructure; (iii) food industry; (iv) areas securing medicines supply etc.
- In the affected states: (i) energy security areas; (ii) state and municipal infrastructure (in relation to the increased infrastructure costs and the need of an additional infrastructure); (iii) liquidity through capital market transactions and financial intermediaries (support of projects for directly dealing with challenges related to refugees, or assistance to companies' activity with regard to solving the refugee crisis) etc.

Law on the Amendment to Law No IX-2160 on the Implementation of Economic and Other International Sanctions.

By this law the model of the implementation of sanctions is supplemented with the following:

- The institute of a temporary administrator who will be appointed where: (i) international sanctions are implemented in Lithuania in respect of a legal entity, its owner or a person controlling such entity; and (ii) temporary administration is necessary in order to avoid negative social, economic, ecological or other important consequences for the public or state and ensure compliance with the sanctions;
- Disposing of the frozen property by transforming one type of property to another type of property (in cases where perishable economic resources and economic resources that can rapidly lose their trade value were frozen through the implementation of the international sanctions, or where costs of storing, keeping and/or maintenance thereof can exceed the trade value, such economic resources can be disposed of and the received funds held in special deposit accounts);
- Rearrangement of the model for acting of authorities involved in the implementation of sanctions;
- Emphasis on the role of the Financial Crime Investigation Service to ensure the implementation of sanctions, particularly in respect of the identification of beneficiaries and individuals and/or legal entities related to them.

Order of the Minister of the Interior “On Individuals Transferred for Working to the Republic of Lithuania from the Russian Federation or the Republic of Belarus”

- Nationals from Russia and Belarus together with their family members can be transferred to Lithuania and employed in a Lithuania-based company belonging to the same group of companies as in Belarus or Russia;
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- visas for transferring employees and their family members to arrive in Lithuania from Russia or Belarus will be issued at Lithuanian visa offices abroad through the Foreign Ministry and in exceptional cases, at border inspection posts;
- transferring employees and their family members, having applied for a temporary residence permit in Lithuania and holding national visas, will have the right to work and will be exempt from the obligation to obtain a permit to work in Lithuania or obtain a decision of the Public Employment Service from the date of submission of the application for a temporary residence permit;
- when issuing temporary residence permits, family members of transferring employees will not be subject to the requirements of having resided in Lithuania for the last two years, holding a temporary residence permit valid for at least one year and having reasonable prospects of obtaining the right of permanent residence in Lithuania.

Law on the Amendment to Law No IX-751 on the Value Added Tax.

Recipients of support - charity organisations or other persons eliminating consequences of disasters will have an opportunity for funds donated for assistance to buy from suppliers (companies, other legal entities) food, clothes, medicines, bedlinen or other goods with 0% rate of VAT when such goods are provided for assistance to victims of the war in Ukraine or other victims of disasters.

In Ukraine

Resolution No 68 of the Board of the National Bank of Ukraine “*Operation of the Banking System under the Martial Law*”.

The Resolution: (i) allowed transfers to foreign permanent establishments and branches of legal entities whose 100% of shares are owned, directly or indirectly, by the state (except those operating in Russia and Belarus); (ii) shortened the deadlines for payments for export and import from 365 to 90 calendar days etc.

Resolution No 326 of the Cabinet of Ministers of Ukraine “On approval of the procedure for determining damage and losses caused to Ukraine as a result of the armed aggression of the Russian Federation”

- The procedure provides for: (i) areas of determining damage and losses, their main indicators; (ii) state authorities authorized to approve and agree on methodologies for determining damage and the amount of social benefits; (iii) state authorities responsible for determining damage and losses in the relevant area.
- Damages incurred on the Ukrainian territory due to Russia's war, including economic damages incurred by companies, will be calculated in accordance with this procedure. Proper compliance with this procedure can be highly significant to owners of the damaged or destroyed real estate seeking compensation of the damages incurred.

Resolution No 423 of the Government of Ukraine “On amendments to the procedure for examination of commissioned construction facilities”:

- The Resolution establishes a mechanism for expert examination of construction facilities damaged as a result of emergency situations, military operations or terrorist acts;
- The ground for the examination of damaged facilities may be the decision not only of the owner or manager, but also of the authorized bodies or in the cases provided for by law, military administrations.

Proper compliance with this procedure can be highly significant to owners of the damaged or destroyed real estate seeking compensation of the damages incurred.

In Russia

Decree No 79 of the Russian Federation “On the Application of Special Economic Measures in Connection with the Unfriendly Actions of the United States of America and Foreign States and International Organisations That Have Joined Them”.

The Decree is applied to:

- (i) “unfriendly” states (the list includes the USA and Canada, EU states, United Kingdom (including Jersey, Angolia, British Virgin Islands, Gibraltar), Ukraine, Montenegro, Switzerland, Albania, Andorra, Island, Lichtenstein, Monaco, Norway, San Marin, Northern Macedonia, as well as Japan, South Korea, Australia, Micronesia, New Zealand, Singapore and Taiwan); (ii) citizens and officials of “unfriendly” countries; (iii) legal entities under the jurisdiction of “unfriendly” countries; (iv) entities directly or indirectly controlled by “unfriendly” countries;
- The counter-sanctions include the ban on or the restriction of: (i) import of products and/or materials from the sanctioned entity to Russia; (ii) export of products and/or materials from Russia to the sanctioned entity; (iii) rendering of services by the sanctioned entity for the Russian state authorities; (iv) access of the sanctioned entity to participation in the privatization of Russian state and municipal property;
- The following has been prohibited too: (i) the provision of foreign currency by residents to non-residents under loan agreements; (ii) foreign currency transfers by residents to their accounts at banks/other financial institutions located outside of Russia; (iii) the transfer of funds by residents without opening a bank account using electronic payment means provided by foreign payment service suppliers.

Under the procedure established in the decree Russia's debtors will be able to repay debts to foreign creditors in roubles. This procedure extends to obligations in the amount of, exceeding 10 million roubles in calendar month, or in the amount of, exceeding equivalent of this foreign currency amount on the official rate of the Central Bank of the Russian Federation.

Draft Law No 104796-8 of the Russian Federation "On external administration for the management of companies".

The main changes in comparison with the previous version of the draft law are as follows: (i) application of the external administration will be started in respect of companies' branches; (ii) the head of the federal executive authority or the governor of the Russian region will have the right to initiate the external administration procedure; (iii) the external administration will be effected in several ways: first, transfer of all or part of the authorised capital shares or participating interests in the target company to the external administration in trust; second, delegation of powers of the head or director general of the target company to the external administration; (iv) foreign investors holding more than 50% of the voting shares in the target company will have the right to terminate the external administration both prior to or after its establishment (such termination should be based on the obligation to renew and/or continue the activities of the target company).

Draft Law of the Russian Federation "On the nationalisation of property of persons related to "unfriendly" states".

- The draft law can be only a populist measure that will not be adopted;
- The draft law defines persons related to "unfriendly" states very broadly: they include foreign nationals and legal entities, their beneficiaries, branches and their controlled persons;

The draft law allows nationalisation of all types of property which was owned by the above persons on 24 February 2022 and is located in Russia (immovable property, movable property and ownership, cash money, bank deposits, securities and shares);

Compensations for the nationalised property will not be provided.

Resolution No 497 of the Government of the Russian Federation “On the moratorium of bankruptcy”.

- This bankruptcy moratorium is applied to all debtors, including legal entities, nationals and individual businessmen, except for developers of living buildings and other objects of real property that were included in the single register of problematic objects by 1 April 2022;
- The moratorium establishes the following prohibitions: (i) for creditors to initiate bankruptcy proceedings against their debtors; (ii) for creditors to initiate enforcement procedures etc.

Federal law No 171-FZ of the Russian Federation.

It is established that Russian arbitral (commercial) courts have an exceptional jurisdiction to settle disputes pertaining to sanctions, for example:

Dispute
resolution

- disputes pertaining to entities subject to sanctions of foreign states;
- disputes of Russian entities, Russian and foreign entities or disputes between foreign entities, which are based on sanctions on Russian nationals or organisations.

Exception: the jurisdiction is not applied in case of: (i) international treaty; or (ii) prorogation agreement or arbitration agreement under which the arbitration place is not in the Russian Federation (if the prorogation or arbitration agreement are unimplementable because of the sanctions prohibiting a Russian entity from taking judicial action, Russian courts should have jurisdiction to rule on the dispute).

In Belarus

Decree No 93 of the Republic of Belarus “On measures that can be undertaken by the Government of Belarus in order to stabilise the economic situation and reduce the consequences of economic sanctions and restrictive measures”

The decree establishes the right of Belarusian authorities to undertake various measures in respect of Belarus-based companies whose owners are from “unfriendly” countries, including but not limited to:

- Imposition of penalties/fees for early termination of lease agreements, loan agreements, credit agreements, other agreements of similar nature, should this termination be initiated by such entities;
- Suspension of international agreements of the Republic of Belarus on avoidance of double taxation;
- Change in tax rates for income of foreign organizations when paid in favor of foreign organizations from states that commit unfriendly actions. This concerns royalties, debt obligations, dividends, income from sale of real estate in Belarus, sale of enterprises as property complexes, securities, and shares in authorized funds of Belarus-based companies (together with income paid to a shareholder upon withdrawal from a company);

- restriction for sale of shares in authorized funds of Belarus-based legal entities by entities from states that commit unfriendly actions;
 - permit to fulfil obligations to foreign creditors in the national currency (Belarusian rubles). This is possible if unfriendly measures are taken against the Republic of Belarus that result in suspension of financing and implementation of projects or technical impossibility to make settlements in a foreign currency.
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Resolution No 247 of the Council of Ministers of the Republic of Belarus “On the Movement of Transport Vehicles

- Establishes a ban on the movement on the territory of Belarus of transport vehicles registered in the European Union;
 - The prohibition does not apply to the movement of the following categories of goods and transport vehicles: (i) passenger automobiles; (ii) postal consignments; (iii) large cargoes that require a special permit; (iv) humanitarian cargoes; (v) live animals and specialized transport vehicles for their transportation; (vi) medicines, medical devices, spare parts thereof, raw materials and materials for production of medicines etc.; (vii) empty transport vehicles on their way back to the territory of the EU after the transportation of the above-mentioned goods.
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•The Edict No. 137 of the Republic of Belarus “On Writs of Execution”

- Suspends enforcement of writs of execution issued to residents of “unfriendly” countries;
- The list of “unfriendly” foreign states: Australia, all EU Member States, Canada, Lichtenstein, Norway, New Zealand, Albania, Island, Macedonia, the United Kingdom of Great Britain and Northern Ireland, USA, Montenegro, Switzerland;

- The term “resident” includes: (i) legal entities established in accordance with the legislation of foreign states with the location outside Belarus and their branches and representative offices located in Belarus and abroad; (ii) sole proprietors registered in foreign states ; (iii) organisations that are not legal entities incorporated in accordance with the legislation of foreign countries and whose registered offices are located outside Belarus and their branches and representative offices located in Belarus and abroad; (iv) diplomatic missions, consular offices and other representative offices of foreign states located in Belarus and abroad; (v) international organizations, their branches and representative offices located in Belarus and abroad;
- The suspension applies to all types of writs of execution (court orders, court rulings on court orders, notary enforcement inscriptions);
- The suspension applies both to writs of execution issued prior to the entry into force of the Edict and afterwards;
- Banks and other credit organisations shall refuse to accept payment requests issued on the grounds of writs of execution in the absence of the payer's acceptance;
- Payment requests sent to the banks for execution before the effective date of the Edict shall be withdrawn or their execution shall be suspended in accordance with the procedure established by the legislation;
- The Edict does not prohibit the replacement of a creditor who is a resident of an "unfriendly" country with another creditor (for example, a resident of an "unfriendly" country may assign its right of claim to its subsidiary from Russia, which is not included in the list of "unfriendly" countries);
- The Edict does not prohibit a debtor from settling with a creditor that is a resident of an "unfriendly" country;
- Residents of "unfriendly" countries may still apply to court, arbitration, notary offices for debt collection and obtainment of a writ of execution;
- The suspension does not apply to writs of execution issued in favour of individuals.

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