



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

December 2023

*Russia's war in Ukraine has prompted an unprecedented response from countries around the world - economic sanctions and other restrictive measures against Russian and Belarusian entities. The impact of such sanctions is also felt by Lithuanian companies that have businesses or other business relationships in those countries. These companies now face various legal issues, such as termination of business or transfer of operations, performance of contracts, etc., therefore, this newsletter will help you keep track of business-relevant legislation and its amendments in Europe, Lithuania, Ukraine, Russia and Belarus.*

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## In Ukraine

- Ukraine wants frozen Russian assets for war damage, not just interest:
  - On 9 November 2023, Ukraine told Western allies that giving it the interest accrued from frozen Russian assets would not be enough to compensate for damage sustained by the war. Kyiv estimates that \$400 billion will be needed to rebuild the country devastated by Russia's full-scale invasion in February 2022, an amount it believes could double if compensation for the war's victims is taken into account.
- Company DTEK Ukraine won the case at the Hague Court: Russia was ordered to pay \$267 million for expropriated property in Crimea:
  - Permanent Court of Arbitration in The Hague fully satisfied the claim of the commercial energy operator DTEK Ukraine and ordered Russia to pay \$267 million for the property expropriated during the occupation of Crimea. "The Court of Arbitration ruled that Russia must pay the Ukrainian company \$267 million in damages, including late interest and legal costs accrued on the date of adopting the decision. Interest will be charged until damages are fully paid," [notified](#) the company's media center.

- It should be emphasized that this is the second time already such successful outcome was reached in the case. In April 2023, Ukraine's energy giant Naftogaz [notified](#) that the Permanent Court of Arbitration in The Hague ordered Russia to pay USD 5 billion (equivalent to EUR 4,5 billion) to compensate Naftogaz for its losses caused by unlawful expropriation of the company's assets in Crimea.
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## European Union's response

- The International Court of Justice in The Hague [initiated](#) proceedings over a dispute between Ukraine and Russia on Russia's responsibility for violations of the Genocide Convention:
    - On 18 September 2023, the International Court of Justice in The Hague heard arguments from Ukraine and Russia over a possible violation of the 1948 Genocide Convention.
    - Ukraine filed a complaint against Russia with the ICJ on 26 February 2022, two days after Russia began its invasion of Ukraine. According to the United Nations High Commissioner for Human Rights, more than 9,600 people have died in Ukraine since the war started.
    - First of all, the ICJ will establish whether it has jurisdiction over this dispute. The decision is expected to be delivered in the coming months. Sergey Vasiliev, associate professor of law at the University of Amsterdam, emphasizes that if the International Court of Justice establishes that it has jurisdiction over the dispute between Ukraine and Russia it would constitute "a clear finding from the principal judicial organ of the United Nations that Russia should be held responsible as a state and that it may also be ordered to pay reparations." He noted that if the case proceeded to the merits phase, it could take several years to get the final judgment.
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- The Council of Europe created the [Register](#) of Damage for Ukraine:

At the Council of Europe Summit in Reykjavik held on 16-17 May 2023, 44 ministers for foreign affairs signed the Register of Damage for Ukraine, which is part of the Council of Europe system.

- The Register is established for an initial period of three years and will serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused by the Russian aggression against Ukraine. It is a first step towards an international comprehensive compensation mechanism for the victims of the Russian aggression.
- The goal is for the Register to be able to start receiving claims in the first quarter of 2024.

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## In Lithuania

- On 19 September 2023, the Seimas of the Republic of Lithuania adopted [Resolution](#) on inviting Ukraine to join NATO:
  - By this Resolution, the Seimas calls on the parliaments of the NATO member countries to support Ukraine's official application to join NATO and to encourage the governments of the NATO member countries to support the decision to invite Ukraine to join NATO at the NATO Summit in Washington on 9-10 July 2024 to be followed by the immediate opening of negotiations on Ukraine's membership of the Alliance. Thus, Lithuania's position on Ukraine's membership of NATO is clearly declared in the Resolution – the Seimas of the Republic of Lithuania, as the parliament of one of the NATO member countries, already welcomes the invitation of Ukraine to join the Alliance as a country meeting the criteria of NATO membership and does not impose any conditions of the day.
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- LTG Cargo and Ukrainian Railways [tested](#) a new cargo transportation route Kaunas–Kyiv:
  - Lietuvos geležinkeliai (LTG) Group's freight company LTG Cargo and Ukrainian Railways are strengthening mutual cooperation. Lithuanian and Ukrainian transporters, seeking to develop new services, tested a new cargo transportation route Kaunas-Kyiv. The first train loaded with semi-trailers has already reached Kyiv.
  - At the request of customers, cargo transported by railway on this route can also be transported from/to the seaport of Klaipėda. It is expected that, at the request of customers, this route from Lithuania to Ukraine will be able to efficiently and safely transport various types of cargo: fertilizers, PET granules, salt. While cereal crops, building materials, food and beverage products can be imported to Lithuania from Ukraine.
  - Currently, at the request of customers, LTG Cargo and its partners transport cargo on three international routes connecting Lithuania and Ukraine through the border points of Mostyska-Medyka, Jahodyn-Dorohusk and Izov-Hrubeshov. The main shipments are oil and agricultural products. If customers request, individual cargoes can also be transported to Ukraine on the regular intermodal route Kaunas-Slavkov, and from there on the broad gauge to Ukraine.

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## In Belarus

- From now on, legal entities operating in Belarus but related to "unfriendly" countries will receive dividends only to special bank accounts in Belarus:
  - [Decree](#) of the President of Belarus No. 285 "On special accounts", effective as of 16 September 2023, establishes rules for the use of special bank accounts with respect to payments of profit and income to foreign legal entities operating in Belarus or their branches/representative offices, which are related to "unfriendly" countries.

- The obligation to open a special account arises once Belarus applies a special restrictive measure regarding financial transactions involving the receipt of profits and dividends by foreign legal entities (and their branches/representative offices) operating in Belarus.
- These entities can open a special account in any Belarusian bank. The account will be used exclusively to receive funds from special accounts of legal entities (and their branches/representative offices) operating in Belarus. To receive funds from a legal entity operating in Belarus (resident), a foreign legal entity must notify it that a special account has been opened. Then the resident will transfer the funds to the account opened by the foreign legal entity within 10 business days.
- While the restrictive measures are in force, foreign legal entities may use the funds in the special accounts only for the purposes stipulated by Decree No. 285. Foreign legal entities will be able to transfer funds from special accounts to their other bank accounts only upon expiry of a special restrictive measure.

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## In Russia

- Russia blocked \$18 billion in Western companies' profits:
  - To put pressure on countries that Moscow recognised as "unfriendly", the Kremlin has blocked the companies from accessing the cash, imposing a dividend payout ban, approximately in the amount of \$18 billion.
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- From October 2023 new [rules](#) will come into force increasing the “exit” tax to at least 15% of 100% of the market value of assets:
    - As of December 2022, Russia could require a so-called “exit” tax to be paid before selling assets located in Russia. Previously, the exit tax had to be paid in the amount of not less than 10% of 50% of the market value of the relevant assets specified in the independent valuation report. Now, according to Ivan Chebeskov, Director of the Financial Policy Department of the Ministry of Finance, the exit tax will be increased to at least 15% of 100% of the market value of the relevant assets specified in the independent valuation report for all transactions.
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- Russia is considering new [rules](#) mandating “loyalty agreements” for foreign visitors:
    - Ahead of the presidential election in 2024, which is likely to extend Vladimir Putin's long reign until at least 2030, Russia has launched an unprecedented repression on the opposition.
    - News agency TASS, citing the draft document, says that a foreigner “upon entering Russia would consent to comply with existing prohibitions aimed at ensuring the protection of Russian national interests.”
    - A foreigner would consent not to discredit the foreign or domestic policies of the Russian Federation in any form.
    - According to TASS, the document will shortly be submitted to the State Duma, the lower house of Russia’s parliament.
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- Russia's counter-sanctions: new guidelines for transactions with foreign securities:
    - On 8 November 2023, [Decree](#) of the President of the Russian Federation No. 844 "On additional temporary economic measures related to the circulation of foreign securities" came into force, which provides for a special procedure for the transactions complying with the following criteria:
      - a) transaction entails the transfer of title to foreign securities from Russian residents to non-residents;
      - b) by transaction foreign securities are recorded in the accounts opened for the Russian national central securities depository;
      - c) transaction is to be performed at the expense of non-residents' funds held in C-type accounts opened with the Russian banks;
      - d) the initial cumulative value of foreign securities to be transferred under transactions should not exceed 100,000.00 roubles.
    - The mentioned transactions should be made as an auction sale. The exact procedure for such auctions will be determined by the Russian Governmental Commission.
    - Foreign securities purchased by non-residents will be credited to special transit accounts for securities opened by Russian depositaries on behalf of non-resident buyers. Securities will be transferred from such transit accounts to foreign accounts or other transit accounts under special orders of non-resident buyers. The procedure for interaction between capital market participants and their clients as well as the regime of a special securities transit account will be determined by the Bank of Russia.
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