

Pregled stanja RUS gospodarstva na dan 12. april 2022

Draft law on expropriation of foreign assets

On April 8, 2022, the State Council of the Republic of Crimea submitted to the State Duma a new draft law allowing expropriation of any Russian assets of unfriendly countries. Expropriation can be applied to any legal entity or person from unfriendly countries, or person affiliated with such person. Expropriation means takeover of the private property without compensation. It would be a new legal term for the modern Russian law and should not be mixed up with nationalisation and confiscation (nationalisation means takeover of the property in favor of the state against a reasonable compensation; confiscation is used as penalty for particular administrative offences or crimes).

According to lawyers, the draft law might be used rather as response to similar actions of some foreign states against Russian property (e.g. the earlier announced takeover of Gazprom Germania, or the expropriation of the Russian property by Ukraine). However, it's highly questionable whether the law will be adopted.

Source: https://sozd.duma.gov.ru/bill/103072-8#bh_histras
Schneider Group's newsletter: <https://schneider-group.com/en/news/>

Finalised draft law on external administration

The State Duma deputies and members of the Federation Council have finalised draft law on external administration in the foreign companies leaving Russia. On April 12, 2022, a respective draft law was submitted to the State Duma. It is noted, that the finalised version of the document turned out to be more moderate than the original one, which proposed to nationalise the property of foreign companies abandoning Russian market.

External administration eligibility criteria

The draft law does not look as focused on mass application. In order to fall under external control, a company operating in Russia must have 25% under the control of a person from an unfriendly state (not counting offshore companies with Russian owners) and be "essential" for ensuring the stability of the Russian economy.

The second condition is if the company produces essential goods (including those with state regulated prices), controls a large share in the local market, is a city-forming enterprise (provides 25% of employment in a particular locality), is the only supplier (in the public procurement register), is included in the supply chain of industries significant for Russia (i.e., subject to the same regulation).

Grounds for introducing external administration

If a company meets the criteria above, external administration may be introduced in the following cases:

- management left the company after February 24, 2022 without transferring authority;
- the company announced that it would cease operations "in the absence of clear economic grounds";
- staff was reduced by more than a third;
- sales for the quarter decreased by more than a third compared to the same quarter of the previous year;
- the company threatens, by its actions or inaction, other enterprises that fall under the same regulation.

Decision-making body on the external administration introduction

The decision on the introduction of external administration will be made by the Interdepartmental Commission under the Russian Economic Development Ministry.

The Ministries or heads of the federal subjects (regions) will be able to apply to the Commission with relevant initiatives. According to the decision of the Commission, the lawsuit will be filed by the Federal Tax Service with the Moscow Arbitration Court, which will be able to block the company's assets in order to prevent their withdrawal abroad.

By default, external administration functions will be performed by VEB.RF. However, the Interdepartmental Commission will be able to appoint another Russian structure to this role.

Two ways for external administration to function:

The draft law envisages two ways for the external administration to function:

- 1) Transferring to the Russian structure a block of shares of foreigners for 18 months (with the possibility of an extension for 18 months)
- 2) External administration performing the duties of the company's general director within the same time frame (one can switch to this option from the first one). At the same time, the owners (more than 50% of the shares) will be able to apply to the Commission at any time with an application for the resumption of activities, as well as for the sale of shares. It is possible to further proceed to the liquidation of the company or its bankruptcy only from the second option.

According to estimates, the majority of foreign companies that have reduced the range of supplies to the Russian Federation and/or limited new investments are practically outside the scope of this regulation.

List of companies that have announced to either fully or to some extent stop or suspend their operations in Russia: <https://www.kommersant.ru/doc/5240137>

Sources: <https://sozd.duma.gov.ru/bill/104796-8>
<https://www.vedomosti.ru/economics/news/2022/04/12/917682-detali-zakonoproekta-vneshnei-administratsii>
<https://www.kommersant.ru/doc/5304847>

Draft law on criminal liability for compliance with sanctions against Russia

The Russian Government gave a positive conclusion on the draft bill introducing a criminal liability for compliance with the sanctions against Russia. The draft bill was submitted to the State Duma on April 7, 2022 by a group of the State Duma deputies and members of the Federation Council. According to Izvestia, the government has no "conceptual objections" to the proposed measures of criminal liability, follows from the draft conclusion of the Government. However, the bill does not fully take into account the objects of criminal law protection, so the government intends to support draft law, taking into account its revision.

To date, the draft law envisages, among other things, responsibility for refusing to work with banks that have fallen under sanctions. In general, it is not yet clear what exactly will be understood by the implementation of sanctions against the Russian Federation. For example, there is a risk of criminal law claims against top managers who "implemented sanctions" by following the decisions of non-residents of the country: the head or owner of the company. For example, a company closes accounts in a bank that has been sanctioned and opens one in one that has not been subject to restrictions. Such an action can be regarded as support for sanctions.

The Russian Union of Industrialists and Entrepreneurs (RSPP) and the largest foreign business associations of in the Russian Federation opposed the draft law, as it could push companies to accelerate their exit from the Russian market. On April 5, 2022, they sent a collective appeal to the Federation Council Speaker Valentina Matvienko and the Chairman of the State Duma Vyacheslav Volodin, with a request not to support the draft law.

Sources: <https://sozd.duma.gov.ru/bill/102053-8>
<https://iz.ru/1318964/evgeniia-pertceva-maksim-khodykin/na-desiat-prisedanie-kabmin-podderzhit-ugolovnoe-nakazanie-za-ispolnenie-sanktcii>
https://aebrus.ru/en/news/joint_letter_of_the_aeb_rspp_and_other_business_associations_regarding_the_initiative_to_introduce_c/

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