

Alert | Export Controls & Economic Sanctions



May 2022

Polish Government Imposes New Economic Sanctions in Response to Russian Aggression Against Ukraine

The Polish Ministry of the Interior and Administration issued economic sanctions under the Act on special solutions to counteract aggression against Ukraine and to protect national security.

On 16 April 2022, a new law on special solutions in the field of counteracting support for aggression against Ukraine and serving to protect national security entered into force in Poland (the Act). The Act refers directly to measures under European Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus and European Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. In particular, the Act

- freezes economic resources of sanctioned persons and entities, preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them; and
- freezes funds of sanctioned persons and entities, preventing any move, transfer, alteration, and use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or any other change that would enable the funds to be used, including in portfolio management.

The Act also incorporates two additional measures which may be applied to sanctioned persons and entities in the form of:

- exclusion from a public procurement procedure or competition conducted under the Act of 11 September 2019 – Public Procurement Law; and
- entry on the list of foreigners whose residence on the territory of the Republic of Poland is undesirable, referred to in Article 434 of the Act of 12 December 2013 on foreigners.

Under the Act sanctions may be imposed against entities and natural persons based on decisions of the Minister of Internal Affairs and Administration which are immediately effective and enforceable. These decisions are subject to control by the administrative courts.

On 25 April 2022, the first batch of sanctions was announced – the Minister issued decisions designating 33 entities and 15 individuals. The sanctions against these designated entities and individuals are in force as of 26 April 2022. Additional designations under the Act may ensue given the dynamic nature of the Russian invasion of Ukraine. The sanctioned entities are a mix of Russian companies and individuals doing business in Poland, such as Gazprom, as well as Polish entities owned by Russian persons whose business activities in Poland will now be frozen (e.g. a leading sporting goods chain). The overall effect of these sanctions may be the cessation of any commercial activity between the sanctioned companies and Polish businesses and consumers. All persons and entities with any relationship with persons and entities subject to sanctions should be prepared to react and respond to the new measures with effective sanctions compliance programs (policies, procedures, internal controls and training). Tailored risk assessments to determine the extent of existing relationships or contracts with any of the sanctioned persons or entities should be considered, as well as forward-looking or anticipated projects that should be put on hold or terminated. Further, implementing risk-based economic sanctions policies, procedures and internal controls should be considered to prevent future dealings directly or indirectly with sanctioned persons. In some cases it may be possible to invoke force majeure clauses or other remedies to deal with existing relationships, but each touchpoint with a sanctioned person or entity would involve a case-by-case review of both the legal and practical impact and considerations.

Additionally, Poland introduced a general ban on the import and transport through Poland of coal originating from the territory of the Russian Federation or Belarus.

The Act introduces two types of penalties for breaching the imposed sanctions or taking actions aimed at or resulting in circumventing them:

- an administrative fine of up to PLN 20 million (approximately \$4.5 million);
- imprisonment for a term of not less than three years.

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