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SETTING FOUNDATIONS

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→ Employment of persons with temporary refuge

With regard to the current war in the Ukraine, in the following text we would like to focus on the employment of refugees from Ukraine who have been granted temporary refuge in the territory of the Slovak Republic.

Provision of temporary refuge

Temporary refuge is currently granted for the purpose of protecting foreigners from war, endemic violence, the consequences of a humanitarian catastrophe or persistent or massive human rights violations in their country of origin. It is the easiest way for persons fleeing war to obtain protection (administratively, it is a less demanding process than the asylum procedure). On 28. December 2022, the Government of the Slovak Republic approved by Resolution No. 144/2022 a proposal to declare the provision of temporary refuge to citizens of Ukraine and their family members in connection with the armed conflict in Ukraine, which has caused a mass influx of foreigners to the territory of the Slovak Republic (hereinafter referred to only as “**Declaration on provision of temporary refuge**“). In the Proposal for the declaration on the provision of temporary refuge, the Government of the Slovak Republic proclaimed the provision of temporary refuge to citizens of Ukraine and their family members, a family member of a citizen of Ukraine is considered to be the spouse of a citizen of Ukraine, a minor child of a citizen of Ukraine or a minor child of the spouse of a citizen of Ukraine, and a parent of a minor child who is a citizen of Ukraine. On the basis of this Declaration on the provision of temporary refuge, it was possible to initiate proceedings for the provision of temporary refuge.

The procedure for granting temporary refuge shall begin with the declaration of the foreigner at the competent police department that he/she applies for temporary refuge in the territory of the Slovak Republic. Persons who provide a credible proof of their identity and nationality of Ukraine and, if they are not citizens of Ukraine, their identity, nationality and family relationship to a citizen of Ukraine (on the basis of the relevant documents) shall be granted temporary refuge immediately (i.e. at the moment directly upon visiting the relevant police department). If the foreigner does not have any documents, it is necessary to

apply for temporary refuge at the Asylum Department in Humenne. A decision on his/her application will be made within approximately 30 days. A foreigner who has been granted temporary refuge will be issued a certificate of tolerated stay in the territory of the Slovak Republic marked “DISPLACED PERSON” („ODÍDENEK“).



The beginning of granting of the temporary refuge was set by the Declaration on the provision of temporary refuge on 1. March 2022 and its termination on 31. December 2022, provided that the Government of the Slovak Republic does not decide on its early termination or prolongation. In view of the fact that the Council of the EU adopted on 4. March 2022 the COUNCIL IMPLEMENTING DECISION (EU) 2022/382, there is a high probability that the time limit set for the termination of the temporary refuge will be adjusted as well as the circle of persons to whom the temporary refuge may be granted. In fact, under EU legislation, temporary protection should also apply to other nationals fleeing Ukraine if they have had long-term residence in Ukraine and temporary protection/temporary refuge should be granted for an initial period of one year (i.e. not only until 31. December 2022), followed by a possible extension of six months, for a maximum period of one year. In doing so, the European Commission will continuously monitor and review the situation and may at any time propose to the Council of the EU to terminate the granting of temporary protection if the situation in Ukraine allows for the safe and sustainable return of the persons, to whom temporary protection was granted, or may propose to the

Council to extend the temporary protection for a maximum of one year.

Employment of foreigners with granted temporary refuge

Foreigners who have been granted temporary refuge may work in the Slovak Republic without further admission. In accordance with the provision of Section 23a(1)(k) of Act No. 5/2004 Coll. on employment services, as amended, an employer may employ a third-country national who has been granted temporary refuge. In this case, neither a confirmation of the possibility of filling a vacancy corresponding to a highly qualified job, nor a confirmation of the possibility of filling a vacancy, nor an employment permit is required.

The employment of a foreigner with temporary refuge may take the form of an employment (i.e. an employment contract is concluded) or the relationship under employment law with the foreigner may also be established on the basis of one of the agreements on work performed outside the employment. Please note, however, that it is currently not possible for a foreigner who has the status of a displaced person to obtain a business licence in the territory of the Slovak Republic (however, this may change in the coming days in view of EU legislation).

In the case of an employment relationship concluded in this way, the employer is obliged, as in the case of employment of other foreigners, to notify the Labour, Social Affairs and Family Office of the commencement and termination of the employment relationship with a foreigner who has been granted temporary refuge, by means of the prescribed form - information card, within 7 days from the date of the foreigner's commencement of work.

Due to the very dynamic development of the situation and the efforts of the Government of the Slovak Republic to react promptly to any changes, there may be several changes to the information provided in this text in the coming days.

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→ International sanctions and their application in practice

In connection with the war in Ukraine, numerous sanctions have recently been adopted at both international and European level, the main aim of which is to ensure, maintain or restore international peace and security. Such sanctions are not something that affect us only marginally. Both legal entities and natural persons enter into various business relationships on a daily basis, and currently sanctions against Russian and Belarusian entities are particularly topical at the moment.

When are international sanctions involved

An international sanction is a restriction, order or prohibition in international sanctions legislation (e.g. UN Security Council decision/legally binding EU act/government regulation) for the purposes of securing, maintaining and restoring international peace and security, protecting fundamental human rights, combating terrorism and the proliferation of weapons of mass destruction, and achieving the objectives of the EU's Common Foreign and Security Policy and the UN Charter.

As mentioned above, several international sanctions have been adopted at the international level recently and in the previous period, which provide for various restrictions or prohibitions in relation to the entities concerned. It is possible to check whether the subject of the performance or the contracting party is not subject to an international sanction in one of the publicly available sources. These include, for example:

- EU Sanctions Map: to find out information about current sanctions or sanctioned persons or entities
<https://www.sanctionsmap.eu/#/main>
- Application EUR-Lex: allows to search for the relevant EU sanctions legislation
<http://eur-lex.europa.eu/>
- Financial Sanctions Database: for the needs of financial or credit institutions
<https://ecas.ec.europa.eu/cas/>
- Official website of the Ministry of Foreign Affairs of the Slovak Republic: provides a general overview of international sanctions
<https://www.mzv.sk/zahranicna-politika/medzinarodne-sankcie>

For identifying the beneficial owner of Slovak legal entities, this may in turn be special registers, e.g.:

<https://rpo.statistics.sk/rpo/#login>

<https://rpvs.gov.sk/rpvs>

Ascertaining the ultimate beneficial owners/ownership structure of Slovak legal entities or other persons is important primarily because sanction measures often also apply to persons owned or controlled directly or indirectly by the sanctioned person, persons acting for the benefit of the sanctioned person or controlled by the sanctioned person, or persons who are in any way associated with the sanctioned person.



How to proceed if international sanctions are involved

If a person wishes to exercise due diligence in entering into a contractual relationship, he or she should investigate whether the subject matter or the counterparty is subject to international sanctions when entering into or performing the contract. If during the preparation of a contract, conclusion of a contract or performance of a contract a suspicion arises that one of the parties to the contractual relationship is subject to an international sanction or that the subject of the performance of the contractual relationship is or is to be sanctioned property, but this suspicion cannot be reliably verified prior to the conclusion of the contract, such person shall be obliged to report this fact to the competent state administration authority and the Slovak Information Service as soon as the person becomes aware of the said fact. A person is also obliged to notify the competent state

administration authority and the Slovak Information Service of the fact that he/she has property sanctioned by an international sanction, immediately after he/she has become aware of this fact. Notifications shall be made to the competent state administration authority in writing or orally on the record and, if there is a risk of missing the deadline set by the international sanction, also by telephone or fax. The authority competent to receive such a notification is established by a specific regulation (e.g. Act No. 575/2001 Coll. on the organisation of government activities and the organisation of the central state administration). The competent authority shall subsequently issue a decision on the seizure of the property, discontinue the proceeding, or reject the application if it finds that the property is not subject to an international sanction. In the seizure decision, the competent authority may, for example, also determine exceptions to the sanction's regime.

Consequences of a breach of international sanctions

By violating a restriction, order or prohibition resulting from an international sanction or by failing to comply with the above-mentioned notification obligation, a legal person, or a natural person – entrepreneur may be guilty of an administrative offence. The sanction for such an administrative offence may be a fine of between 50.000 Euro and 1.659.700 Euro and/or forfeiture of the item.

Conclusion

In view of the current developments in the world situation as well as the proliferation of regulations on international sanctions, it is more than timely to begin to address the question of the subject matter of the performance of individual contracts or persons with whom commercial contracts are to be concluded. As can be seen from the above, a properly set up process of checking the relevant facts in pre-contractual and contractual relations can be a good prevention against possible penalties resulting from non-compliance with the imposed international sanctions.

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