

RUSSO-UKRAINIAN WAR COULD HAVE AN UNEXPECTED IMPACT ON AMERICAN BUSINESSES: AN EMPLOYER'S GUIDE TO A GROWING INTERNATIONAL CRISIS

Insights
Mar 7, 2022

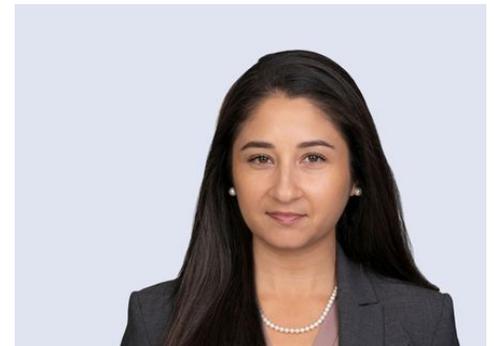
As the Russo-Ukrainian war continues with a rising death toll and international sanctions, citizens and businesses around the world are reeling at the impact of this devastating crisis. For many workers and businesses both inside and outside the war zones, this may be their first time dealing with side effects of war. Businesses in the United States will soon feel the ripple effects if they haven't already – in the form of expanded immigration options, possible workforce conflicts or disruption, and cyberthreats. And if any of your workers have connections to Ukraine, you also have a responsibility to support them by demonstrating an element of compassion and offering crucial resources. What should American businesses know about the Russo-Ukrainian war and what specific steps should you consider?

The Great Migration from Both Ukraine and Russia

Although the Russo-Ukrainian war is a Europe-centric conflict, its refugee migration is a global crisis – and it could impact your workplace. Ongoing war, halted production, destroyed infrastructures, sanctions, and a tanking economy are leading one of the largest workforce displacements this generation has seen. Since the invasion erupted several weeks ago, we've seen a mass Ukrainian refugee exodus into neighboring countries, while Russia saw a sharp drop in its economy due to sanctions with many citizens reportedly looking to the West for new job opportunities.

If You Have Operations in Ukraine or Russia

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For businesses within the conflict zones, this may require temporary relocation of workers and operations to another country. If you have operations in either of these countries, we recommend you immediately coordinate with your International Law counsel to identify critical steps you should take.

Incorporating Migrants into Your Company Operations

Even if you don't operate in these areas, you should still prepare for an influx of foreign applicants and the possible handling of workplace immigration issues. We expect to see an influx of refugees and asylees coming to the United States in the coming weeks and months, and many of these displaced workers will be seeking employment.

For example, citizens of Ukraine who had never before considered seeking employment in a specialty occupation covered by H-1B visas, or those with extraordinary ability who might qualify for an O visa, could seek employment with your organization. This crisis could be a boon to tech companies and other organizations seeking talented, educated workers.

In fact, the Department of Homeland Security (DHS) just announced the designation of Ukraine for Temporary Protected Status (TPS) for 18 months. "Russia's premeditated and unprovoked attack on Ukraine has resulted in an ongoing war, senseless violence, and Ukrainians forced to seek refuge in other countries," said Department of Homeland Security Secretary Alejandro N. Mayorkas. "In these extraordinary times, we will continue to offer our support and protection to Ukrainian nationals in the United States." TPS is a DHS program that allows migrants from designated countries to reside legally in the United States for a period of up to 18 months, which the U.S. government can renew indefinitely. During that period, TPS holders are eligible for employment and travel authorization and are protected from deportation.

Individuals eligible under the TPS designation for Ukraine must have continuously resided in the United States since March 1, 2022. Individuals who attempt to travel to the United States after March 1, 2022, **will not be eligible for TPS**. Ukraine's 18-month designation will go into effect on the publication date of the forthcoming *Federal Register* notice. Those who apply for TPS must pass a vetting



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process, including a criminal background check and a check for ties to terrorist organization.

The program does not include a path to permanent residency or U.S. citizenship, but TPS recipients can apply for those designations separately.

We recommend you coordinate with your Immigration Law counsel to develop a specific plan that could benefit your organization while assisting with the migration crisis. There are a number of refugee agencies that work directly with the U.S. Department of State to help refugees obtain housing and jobs. The refugees coming to the U.S. via the State Department are fully vetted and have work authorization and will be actively seeking employment. If you wish to hire refugees, you should reach out to refugee agencies and their affiliates in your local area in conjunction with your immigration counsel to coordinate hiring of their clients.

Response to an Overseas Crisis at Home

Your current workforce is the most technologically advanced and socially aware in history – and as a result is much more capable and willing to confront global issues and world events. A quick scan through social media will show humanitarian campaigns, messages of support, commentary, and political opinions on the Russo-Ukrainian war. Your workforce may very well be more connected to this war than any other international conflict in history – and this could lead to inflamed passions, a heightened level of involvement, and mental health strain. All possibilities demand your attention.

Direct or Indirect Involvement

First and foremost, you must be prepared to make arrangements as necessary to accommodate employees who have family members and loved ones in and around the conflict zones. You should expect to receive employees' leave requests to care for affected family members overseas and/or to engage in humanitarian efforts. In fact, given Ukraine's President Volodymyr Zelenskyy's recent rally for foreign volunteers to join Ukraine's Territorial Defense force, you may soon see employees request leave to join the fight overseas. Subject to applicable federal and local laws, now is a good time to re-evaluate your Paid Time Off (PTO), Paid Sick Leave, and/or any other applicable leave policy in order to process such requests. It is also prudent to re-familiarize

yourself with protected military leave laws in anticipation of further U.S. involvement in this conflict, and consult with your employment counsel as necessary.

Workplace Complaints Related to Company Connections

In today's mass-communication world where everyone is more connected now than ever through social media, personal opinions on the war will no doubt bleed into the workplace and may create contentious issues. It can be in a form of a message-chain (i.e. email-chain, group-message sharing), in physical forms (i.e. buttons, pins, and posters), or even demonstrations and demands for your organization to cut ties with businesses involved in the conflict.

You should take this opportunity to re-familiarize yourself with the National Labor Relations Act (NLRA) and the general standards regarding political speech in the workplace, regardless of whether you have a unionized workforce or not. Certain policies you maintain, or actions you take in response to complaints or demands, can run afoul with Section 7 and 8 of the NLRA. Therefore, it is imperative that you and your managers know how to respond if you receive or hear of an employee's war-related complaint.

Furthermore, states (such as California) may have their own legislation protecting employees against discrimination based on political activities and affiliation. You should consult your counsel before issuing any harsh reprimands (i.e. suspension, termination, sending the employee home) involving workplace complaints related to the war. In the end, regardless of whether you choose to take a stance on the issue, it is prudent to re-evaluate your workplace speech-and-political-activity policy to account for new developments and to ensure a uniformed application of your policy.

Mental Health Impact

Finally, you may also see an increase in reports of mental health impact as this conflict continues. For employers with an existing Employee Assistance Program (EAP), a quick reminder to employees of EAP counseling and other related benefits can be beneficial. For others without an EAP, gathering third-party resources and developing a plan to address mental health issues can be one way to maintain morale and a healthy workplace amid this conflict.

Securing Digital Assets in Light of Anticipated Russian Cyberattacks

War brings destruction, and not just to physical assets. With imminent threats of cyberattacks and a fragile internet network as evident in the need for *Starlink's* satellite-internet emergency deployment in Ukraine, businesses around the world must be prepared for data breach. Vladimir Putin's ominous statement that "anyone who would consider interfering from the outside...will face consequences greater than any you have faced in history" in response to sanctions is a warning that retaliation will come in many forms – and may soon be waged on American digital soil.

[We have developed a detailed Insight discussing the steps employers should take in light of anticipated Russian cyberattacks.](#) This includes a 10-step plan you can take immediately to put yourself in the best possible position:

1. Maintain remote access vigilance, especially in light of the multitudes of workers who continue to work remotely;
2. Require multifactor authentication to access internal network;
3. Keep security software up to date and institute timely patching of systems;
4. Enable robust spam filters;
5. Enforce strong, unique passwords with multiple characters (including numbers, letters, and symbols) and require that they be routinely changed;
6. Encrypt data at rest and in transit whenever possible;
7. Implement robust cybersecurity user awareness and training programs for new workers upon hire and at least annually for existing employees;
8. Immediately disable credentials upon employee departure;
9. Create data backups with regularity; and
10. Ensure you have a strong cybersecurity team in place to not only monitor your network for vulnerabilities and any suspicious activity but also to develop and deploy an incident response plan (which should include response

and notification procedures) in the event of a compromised system.

[Click here](#) to read the entire Insight and to review a suggested plan should you fall victim of a cyberattack.

Conclusion

While it remains to be seen what will come of the Russo-Ukrainian war, businesses must be prepared to deal with its long-lasting effects. Whether to continue combatting a global pandemic along with losses in the conflict regions, or to prepare for a worldwide workforce migration, businesses would be best served to approach any of these issues with a cautious, pragmatic attitude, and to consult with your counsel before heading into this uncertain future.

Fisher Phillips will continue to monitor any further developments in this area as they occur, so you should ensure you are subscribed to [Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have any questions, please consult your Fisher Phillips attorney, the authors of this Insight, or a member of Fisher Phillips' [Privacy and Cyber Practice Group](#), [Immigration Law Group](#), or our [International Practice Group](#).