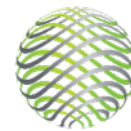




Foreign Direct Investment in Central Europe

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Our generation of lawyers are living in unprecedentedly challenging times. The global pandemic situation impacts all the markets, including the M&A one. In response to the current issues, we experience more, and faster, developments in M&A than we have seen before in the past twenty years. Investors seek greater protection against general lock-downs or supply-chain disruption in due diligence exercises as well as in transaction documents, MAC clauses, earn-out mechanisms, while other standard contractual measures are largely being revisited.

On the regulatory level, governments are seeking the protection of critical supplies and services. New regulations are being imposed on foreign investment into crucial or strategic industries. This brochure is aimed to help overseas investors navigate through the newly implemented regulations of foreign investment into strategic industries in various CE countries. Our country legal practices are prepared to assist further in this changing environment. Please feel free to reach our respective contacts at our country practices shown at the end of this brochure.



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NB: The information in this brochure is correct as of the time of writing – April 2021



Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

No. Regulation 2019/452 has not been adopted under Albanian legislation. The main applicable piece of legislation in Albania with regard to foreign investments is law no. 7764 dated 02.11.1993 "On foreign investors" as amended. Pursuant to Article 2 of such law, foreign investments in the Republic of Albania are not conditioned by a prior authorization. They are allowed and treated on the basis of conditions no less favourable than those recognized to domestic investments under similar conditions, with the exception of ownership of land, which is regulated by a special law.

Definition of FDI

Pursuant to Article 1 of law no. 7764 dated 02.11.1993 "On foreign investors" as amended: "Foreign investment" means any type of investment in the territory of the Republic of Albania, owned directly or indirectly by a foreign investor, which consists of:

- a. movable and immovable property, tangible and intangible, or any type other property rights;
- b. a company, rights deriving from any form of participation in a company, with shares, etc.
- c. loans, monetary liabilities or liabilities in an activity that has economic value and are related to an investment;
- d. intellectual property, including literary and artistic works, technical-scientific, sound recordings, inventions, industrial projects, integrated circuit schemes, know-how, trademarks, trademark designs and trade names;
- e. any right recognized by law or contract, and any license or permit granted in accordance with the law.

Definition of foreign investor

Pursuant to Article 1 of law no. 7764 dated 02.11.1993 "On foreign investors" as amended: "Foreign investor" means:

- a. any natural person who is a national of a foreign country; or
- b. any natural person who is a citizen of the Republic of Albania, but with permanent residence abroad; or
- c. any legal person established under the law of a foreign country;
- d. any "community company", within the meaning of Article 49 of the Stabilization and Association Agreement, approved by law no. 9590, dated 27.7.2006 "On the ratification of the Stabilization and Association Agreement between the Republic of Albania and the European Communities and their member states, which directly or indirectly seeks to make or is making an investment in the territory of the Republic of Albania in accordance with its laws, or has made an investment in accordance with the laws pertaining to the period from 31.7.1990 onwards

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
N.A	N.A	N.A	N.A	N.A	N.A



Austria

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. On 15 July 2020 the Austrian Parliament adopted a new FDI Screening Act (Investitionskontrollgesetz).

Definition of FDI

FDI is defined as:

The direct or indirect acquisition of an Austrian undertaking; of shares in an Austrian undertaking, controlling influence over an Austrian undertaking, or of essential assets of an Austrian undertaking by at least one foreign entity

Definition of foreign investor

An acquirer is considered a foreign entity if it does not hold citizenship from a member state of the EEA or Switzerland (for natural persons), or if it has its registered seat outside the EEA and Switzerland.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
<p>Yes, only for the following, highly sensitive sectors:</p> <ol style="list-style-type: none"> 1. defence equipment / defence technology; 2. critical energy infrastructure; 3. critical digital infrastructure (in particular 5G infrastructure); 4. water; 5. systems that enable data sovereignty of the Republic of Austria; and 6. research and development in the fields of pharmaceuticals, vaccines, medical devices and personal protective equipment. For this sector, the 10 % threshold temporarily applies until 31 December 2022 (COVID-19 crisis). 	<p>Yes, if an Austrian undertaking is acquired by a foreign entity and the relevant thresholds are met.</p>	<p>No</p>	<p>The FDI Screening Act does not explicitly address whether the establishment of a company also falls within its scope. However, the following two aspects are relevant in this context: First, the FDI Screening Act provides that transactions are exempt from the approval requirement where the target is a very small undertaking with less than ten employees and an annual turnover or annual balance sheet total of not more than EUR 2 million. Second, the new FDI screening framework was introduced to control acquisitions of existing Austrian companies. Against this backdrop, we understand that the establishment of a new company does not fall within the scope of the approval requirement if no existing undertaking is transferred to the new company. If, however, parts of an existing company are contributed to the new company, an approval requirement may arise.</p>	<p>Yes, the FDI Screening Act explicitly provides that contracts which confer the right to use all or essential parts of the assets of a target company, fall within its scope.</p>	<p>The FDI Screening Act provides that the acquisition of controlling influence also falls within its scope. In this A, the law refers to the EU Merger Control Regulation which provides (Article 3(2)) that "control" shall be constituted by rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:(a) ownership or the right to use all or part of the assets of an undertaking;(b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.</p>



Austria

Deadline for notification of the relevant screening body

The application for approval shall be submitted immediately after the conclusion of the contract which triggers the approval requirement. Note that a notifiable transaction must not be implemented before it has been approved.

Screening procedure

After an application has been submitted to the authorities, they must immediately notify the European Commission in order to initiate the pan-European co-operation mechanism enacted by the FDI-Screening-Regulation. After the expiry of a 35-day period, within which the European Commission and other EU member states may provide comments on the contemplated investment, and a possible extension by another five days, the authorities have one month to review the transaction (Phase I). Within this period, the authorities must either approve the transaction or initiate an in-depth investigation (Phase II). A Phase II procedure runs for two months, within which the authorities may either approve (potentially subject to conditions) or prohibit the transaction.

Screening decision

Within Phase I, the authorities may either approve the transaction or initiate Phase II proceedings. If Phase I expires without the authorities initiating Phase II, the transaction is automatically cleared. In Phase II, the authorities may approve or prohibit the transaction. Different from Phase I, the authorities may also impose conditions in Phase II.

Are fines or other penalties prescribed due to failure to notify the FDI?

Yes. Infringements may be sanctioned with up to three years imprisonment as well as the imposition of fines (generally up to EUR 40,000).

Please comment on any other FDI review aspects you deem relevant in your jurisdiction (e.g. any specifics, exemptions, broader definitions etc.).

- For investments in other sensitive sectors relevant for public order and/or security the triggering threshold remains at 25% and 50% (voting rights). Part II of the Annex to the FDI Screening Act contains a non-exhaustive list of these sectors, including:
 - critical infrastructure such as energy, information technology, transport, health, food, telecommunications, etc.;
 - critical technologies and dual use items as defined in Regulation (EC) No 428/2009; these include artificial intelligence, robotics, cybersecurity, quantum and nuclear technology, nano and biotechnology, etc.;
 - supply of critical resources, including energy or raw materials, as well as food security, medicines, vaccines, medical devices and personal protective equipment, etc.;
 - access to sensitive information, including personal data, or the ability to control such information; and (v) the freedom and pluralism of the media.
- Shares of foreign entities shall be added up in case one foreign entity holds an interest of at least 10% in another foreign entity or if one foreign entity has holds controlling influence over another foreign entity. This is also the case where foreign entities agree to jointly exercise their voting rights (shareholders agreements).
- The threshold of 10%, 25% or 50% of shares in the target company (these thresholds trigger an approval requirement) is also met if at least two foreign entities terminate a shareholders agreement and if at least one foreign entity (alone) retains a shareholding which meets the relevant threshold.
- Target companies have to notify the authorities of transactions which fall within the scope of the FDI Screening Act if they have not been informed about an application for approval.



Bosnia & Herzegovina

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

No.

Definition of FDI

Investment in a newly incorporated legal entity or existing domestic legal entity as well as investment into a newly incorporated institution or existing institution which can be in money, goods and rights.

Definition of foreign investor

Natural entity without permanent residence in BiH, without main place of business in BiH, or foreign legal entity incorporated pursuant to foreign laws which has its registered office, management or main place of business abroad.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
N.A	N.A	N.A	N.A	N.A	N.A



Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Bulgaria has not yet implemented FDI screening rules and mechanisms in accordance with Regulation 2019/452 (the "Regulation"). There are currently no indications of such rules and mechanisms being discussed in Parliament.

Although, there is no general restriction, screening or limit of foreign investments in Bulgaria, there are certain industry-specific restrictions adopted by various laws. The Act for Economic and Financial Relations with Companies Registered in Jurisdictions with Preferential Tax Regime, their Related Parties and Beneficial Owners introduced in 2014, prohibits companies, domiciled in offshore jurisdictions and companies under their control, from engaging in certain economic activities, including banking and insurance activities, public procurement procedures, privatization transactions, acquisition of municipal property, gambling licenses, radio and television operators, auditors, etc. The law however provides for various exceptions. Under the Gambling Act, foreign investors (i.e. non-EEA nationals and legal entities) are also subject to more stringent requirements regarding investments in the gambling industry, where, to be eligible to invest in a local entity, holding a gambling license, a foreign investor is required to have invested at least EUR 10M in other activities in Bulgaria and created 500 jobs or to organize gambling games in a casino located in a hotel of four or more stars owned directly or indirectly by the investor. Pursuant to the Bulgarian Agricultural Land Ownership and Use Act, foreign investors (i.e. non-EEA nationals and legal entities) are generally barred from the acquisition of agricultural land on the territory of the country, unless this is allowed pursuant to an international treaty to which Bulgaria is a party. Companies with direct or indirect shareholding by offshore companies are also prohibited from acquiring agricultural land.

The general support, informational, administrative support, certification and collection of statistical data of the foreign investments in Bulgaria is carried out by the Foreign Investments Agency, which is tasked with preparing an annual report on foreign investments in the country. Foreign investments are further monitored by the Bulgarian National Bank (BNB), which is tasked with keeping statistical information on loans between local and foreign entities. In this regard, locally domiciled legal entities are obligated to report to the BNB any received financing, exceeding the amount of BGN 50,000 (approx. EUR 25,000) within 15 days of its receipt. BNB is also entitled to request from any local and foreign person information relevant to the balance of payments and the international investment position of the country.

The Bulgarian merger control requirements apply to foreign and domestic mergers. The decision making body with respect to approvals or blocking of notifiable concentrations is the Commission for Protection of Competition. Additional regulatory clearance may be necessary in the regulated sectors such as banking, financial services and insurance and energy, among others.

Definition of FDI

Due to the lack of legislative measures on the implementation of FDI screening rules in accordance with Regulation, Bulgaria currently does not have a legal definition of FDI.

Definition of foreign investor

Similarly to the definition of FDI, the Bulgarian legislator has not yet established a legal definition of a foreign investor for the purposes of the FDI screening rules in accordance with Regulation.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
N.A	N.A	N.A	N.A	N.A	N.A



Croatia

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Croatia is planning to implement FDI screening rules, but has not yet brought any relevant national legislative act.

Namely, the Act on the implementation of Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union („**Act on implementation**”) was provided for in the Plan for harmonizing the legislation of Republic of Croatia with EU *acquis communautaire* in 2020. The respective Act should have entered the legislative procedure by July this year, however, the legislative procedure has not yet begun.

Furthermore, according to unofficial information from the Ministry of European and foreign affairs, the Act on implementation will not enter the legislative procedure at all. Instead of the primarily planned Act on implementation, a short Regulation on the implementation of Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union („**Regulation on implementation**”) shall be adopted. The Regulation on implementation will designate the Ministry of Economy and Sustainable Development national contact point for FDI screening rules and should be made available for the public consultation later in August. Moreover, the Critical Infrastructure Act shall also be amended according to the Regulation 2019/452.

Currently, FDIs are regulated by the Foreign Exchange Act (Official gazette 96/2003, 140/2005, 132/2006, 150/2008, 92/2009, 153/2009, 133/2009, 145/2010, 76/2013) and the accompanying Decision on data collection for the purposes of compiling the balance of payments, the state of external debt and the state of international investments. The reporting obligation under those acts is not connected with the implementation of the Regulation 2019/452, since they are in force from 2013(7).



Czech Republic

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. The Czech Act on the Screening of Foreign Investments ("Act") No. 34/2021 Coll. entered into force on 1 May 2021.

Definition of FDI

FDI means an asset in any form which has been provided or will be provided by a foreign investor for the purpose of carrying out an economic activity in the Czech Republic and which allows the foreign investor to exercise an effective degree of control over the conduct of this economic activity.

According to the Act, an effective degree of control over the conduct of the economic activity is:

- the possibility for a foreign investor to dispose of at least a 10% share of voting rights or the possibility of exerting an appropriate influence on the person through which the economic activity is carried out ("target person"); this share also includes the shares of persons who are subject to uniform management with a foreign investor, and the shares of associations of a foreign investor;
- the membership of a foreign investor or a person close to the foreign investor in the body of the target person;
- the possibility for a foreign investor to dispose of the property rights to a thing through which the economic activity is carried out ("the target thing"); or
- another degree of control resulting in the ability of a foreign investor to gain access to information, systems or technologies that are important with respect to protecting the security of the Czech Republic or internal or public order.

Definition of foreign investor

A foreign investor is anyone who has made or intends to make a FDI in the Czech Republic and who::

- is not a citizen of the Czech Republic or a citizen of another Member State of the EU;
- does not have a registered office in the Czech Republic or in another Member State of the EU; or
- is directly or indirectly controlled by a person who meets the above mentioned requirements for a foreign investor.

A foreign investor is also a trustee of a trust fund who, on behalf of that trust fund, has made or intends to make a FDI in the Czech Republic if its:

- the possibility for a foreign investor to dispose of at least a 10% share of voting rights or the possibility of exerting an appropriate influence on the person through which the economic activity is carried out ("target person"); this share also includes the shares of persons who are subject to uniform management with a foreign investor, and the shares of associations of a foreign investor;
- the membership of a foreign investor or a person close to the foreign investor in the body of the target person;
- the possibility for a foreign investor to dispose of the property rights to a thing through which the economic activity is carried out ("the target thing"); or
- another degree of control resulting in the ability of a foreign investor to gain access to information, systems or technologies that are important with respect to protecting the security of the Czech Republic or internal or public order.

Deadline for notification of the relevant screening body

According to the Act, there is no specific deadline for notification of the relevant screening body (Ministry of Industry and Trade). Valid permission is, however, condition precedent to the transaction.

Screening procedure

The Ministry of Industry and Trade ("Ministry") examines FDI, consults, conducts negotiations, decides on FDI and monitors compliance with the obligations laid down by the Act and decisions issued under the Act.

In general according to the the Act, the FDI could not be realized without permission, or without conditional authorization in:

- the founder of the trust fund;
- the trustee of the trust fund;
- a person authorized to supervise the management of the trust fund, who may appoint or remove a trustee or beneficiary, or whose consent determine such appointment or removal;
- the beneficiary of the trust fund; or
- someone in whose primary interest the trust fund has been established or managed



Czech Republic

Screening procedure (continuation)

The Ministry shall initiate the screening procedure of the FDI ex officio if the foreign investor makes a FDI in the target person, who will in 5 years become a target person in which the FDI could not be realized without permission, or without conditional authorization, or will make a contract with a person designing, creating, or modifying the nuclear facility. The Ministry shall initiate the screening procedure of the FDI ex officio if:

- a foreign investor does not submit an application for permission of a FDI; or
- it is after 5 years from the day of completion of the FDI apparent that the foreign investor has acted in such way as to cover up facts for which otherwise the screening procedure of the FDI may be initiated. For the FDI that do not meet the above mentioned requirements but are capable of endangering the security of the Czech Republic or internal or public order, the Ministry can initiate the screening procedure of FDI ex officio:
 - a. on the basis of the result of the consultation proposed to the Ministry by a foreign investor; or
 - b. within 5 years from the date of completion of the foreign investment if the foreign investor has not submitted a proposal for consultation.

Screening decision

If the Ministry does not receive an opinion or information showing that a FDI may pose a threat to the security of the Czech Republic or internal or public order, and if the Ministry has no reason to believe so, it will issue a decision approving the FDI within 90 days from the day of initiation of the procedure for examining the FDI. A period of up to 30 days shall be added to the period of 90 days in the case of a particularly complex case.

If the Ministry receives an opinion or information showing that a FDI may pose a threat to the security of the Czech Republic or internal or public order, or if the Ministry has a reason to believe so, it will submit the matter to the Czech Government for consideration before issuing a final decision within 90 days from the day of the initiation of the procedure for examining the FDI.

The Ministry shall issue without undue delay a decision on the conditional authorization of a FDI, a decision on the non-granting of a FDI permit, a decision on conditional admissibility of a FDI, a decision on the prohibition of FDI or a decision on the prohibition of further duration of a FDI if the Czech Government agrees that such decision is necessary for the protection of the security of the Czech Republic or internal or public order.

The Ministry will issue without undue delay a decision on the authorization of a FDI or a decision on the admissibility of a FDI without setting conditions if the government decides that the FDI does not pose a threat to the security of the Czech Republic or internal or public order.

Are fines or other penalties prescribed due to failure to notify the FDI?

According to the Act, the foreign investor will commit an offence if:

- a. the foreign investor fails to comply with the obligation imposed by the decision prohibiting the continuation of the FDI;
- b. the foreign investor does not meet the conditions imposed by the decision on the conditional authorization of the FDI or the decision on conditional admissibility of the FDI;
- c. the foreign investor makes the FDI without making an application for permission of the FDI; or
- d. the foreign investor does not submit a request for consultation where the target person holds a licence for a national radio or television broadcast or a periodic publisher with a combined minimum printed cost of 100 000 copies per day for the last calendar year.

For the offence in the letter a) and b) a fine can be imposed up to 2% of the total net turnover achieved by a foreign investor for the last completed financial year, or from CZK 100,000 to CZK 100,000,000 if the amount of total net turnover achieved by a foreign investor for the last completed financial year cannot be determined.

For the offence in the letter c) and d) a fine of up to 1% of the total net turnover achieved by a foreign investor for the last completed financial year, or from CZK 50,000 to CZK 50,000,000 if the amount of total net turnover achieved by a foreign investor for the last completed financial year cannot be determined.

Please comment on any other FDI review aspects you deem relevant in your jurisdiction (e.g. any specifics, exemptions, broader definitions etc.).

With some exceptions, the Act on the Screening of Foreign Investments shall not apply to the FDI completed before the day of the entry into force of the Act.



Hungary

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. The Hungarian Parliament adopted Act LVIII of 2020 on the Transitional Regulation Related to The Cessation of The State of Emergency and The Epidemiological Preparedness (hereinafter “the Act”), applicable as of 18 June 2020, provides, inter alia, special provisions regarding the FDI, which shall apply until 31 December 2021.

Definition of FDI

For the purposes of the Act, any of the following type of transactions qualify as an investment:

- transfer of shares or quotas of strategic companies;
- transfer of essential assets of strategic companies;
- capital increase in strategic companies;
- transformation, merger or demerger of strategic companies;
- issuing bonds in strategic companies;
- establishment of usufruct rights on shares or quotas of strategic companies.

Definition of foreign investor

According to the Act, a foreign investor is a citizen of / a legal person established in:

- a Member State of the European Union,
- a country of the European Economic Area,
- the Swiss Confederation or
- a third country,

who intends to make a transaction, which falls under the scope of the Act.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
Yes	No	No	No	Yes	N.A



Deadline for notification of the relevant screening body

The official language of the procedure is Hungarian and the notification needs to be filed with the Minister of Innovation and Technology within 10 days of the date of the transaction. During the whole process legal representation by a Hungarian attorney at law is mandatory. The notification shall contain certain data of the foreign investor, the detailed description of the transaction with the relevant circumstances and the complete set of documentation regarding the referred transaction.

Screening procedure

The Minister of Innovation and Technology reviews the transaction. The decision on the review is limited to whether the FDI poses a threat to state interest, public security or order of Hungary, in cases where it affects strategic companies. Government Decree No. 289/2020. (VI. 17.) (including, but not limited to.; the chemical sector; the communication sector; the energy sector; the financial sector; transportation and logistics) and points a)-e) of para. 1 of Article 4 of the Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (including, but not limited to.: critical infrastructure, physical or virtual, including infrastructure in the fields of energy, transport, water, health, communications, media, data processing or data storage, the aerospace sector, and defense, electoral or financial infrastructure and sensitive facilities, as well as land and real estate, which are essential for the use of such infrastructure or land and real estate located in the vicinity of such infrastructure; the supply of critical resources, including energy or raw materials, food safety, medical and protective equipment; and freedom and pluralism of the media, but excluding financial infrastructure) determines the scope of strategic companies.

In determining whether a FDI may affect state interest, public safety order, the Minister takes into account, in particular:

- whether the foreign investor is directly or indirectly under the control of the government, including state authorities or the armed forces of a third country, including through an ownership structure or significant funding;
- whether the foreign investor has already been involved in activities that affect security or public order in a Member State;
- whether there is a serious risk that the foreign investor is engaged in illegal or criminal activities.

Screening decision

The Minister shall, no later than 30 working days after the receipt of the notification - if the specified circumstances do not apply - acknowledge the receipt of the notification in writing. If the specified circumstances exist, the Minister prohibits the transactions, which decision the Minister is obligated to argue. Under special circumstances, the Minister can extend the deadline with 15 days. The applicant can contest the prohibition decision.

Are fines or other penalties prescribed due to failure to notify the FDI?

Yes. If an investor fails to notify the Minister of a transaction, which would fall under the effect of the Act, the Minister can impose a penalty. In case of natural person foreign investors, min. 100 000 HUF, and in the case of a legal persons or other organizations, the amount of the penalty is the minimum of the 1% of the last business year's net sales' of the strategic company involved in the transaction. In both cases, the maximum amount of the penalty is up to twice the value of the transaction. Moreover, as specified by the Act, the transaction will be deemed as null and void.

Please comment on any other FDI review aspects you deem relevant in your jurisdiction (e.g. any specifics, exemptions, broader definitions etc.).

No inspection or infringement proceedings may be instituted for failure to notify, if 6 months have passed since the Minister became aware of the transaction, but at the latest 5 years after the circumstances. According to recent changes, the provisions described above shall no longer be applicable to intra-group transactions.



Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. In Latvia a mechanism for the screening of direct investments, including foreign direct investments has already been introduced. In particular, the amendment of 23 March 2017 to the National Security Law, which entered into force on 29 March 2017, includes Chapter VI, which contains restrictions on both transactions with critical infrastructure and the acquisition of influence in a commercial company important for national security, providing that a Cabinet of Ministers permit is required. So, the Questionnaire will be filled with regulations from previously stated National Security Law.

Concerning the REGULATION (EU) 2019/452 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 March 2019. The Regulation does not oblige Member States to introduce an evaluation mechanism, but rather provides for the introduction of a cooperation mechanism in each Member State and the Commission. In order to make it possible to introduce the requirements of the Regulation (establishment of a contact point and information exchange), the Ministry of Economics has prepared the draft law, which aims to provide the Cabinet of Ministers with the powers to determine the authority which will implement the functions of the contact point, ensuring the cooperation mechanism referred to in the Regulation between Member States and the Commission. The draft law has been adopted and included as the amendments to the National Security Law, which came into force on 1 January 2021.

Definition of FDI

Not defined

Definition of foreign investor

Investments made by a foreign investor in the form of a business in the EU to establish or maintain stable and direct links between a foreign investor and an entrepreneur or enterprise, including investments that provide participation in the management or control of such an enterprise.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
Yes	Yes	Yes	No	Yes	<p>In relation to capital companies:</p> <ol style="list-style-type: none"> obtaining of decisive influence; transition of an undertaking; preservation of the status of a stockholder or shareholder or preservation of the right to exercise indirect holding (right to vote), if the beneficial owner changes. <p>In relation to partnership:</p> <ol style="list-style-type: none"> joining of a new member; preservation of the status of a member if the beneficial owner changes



Deadline for notification of the relevant screening body

A permit of the Cabinet of Ministers shall be necessary before a person or several persons who act in a co-ordinated manner obtain qualifying holding or decisive influence in a commercial company of significance to national security or become a member of such commercial company, or also obtain influence in a capital company registered in the Republic of Latvia which is a member of a commercial company of significance to national security (stated in column "Screening procedure").

As well as, a company shall, within five working days from the day when it conforms to any of the conditions referred to in the section "Screening procedure" of this Questionnaire:

1. submit a notification to the Commercial Register Office regarding its conformity with the conditions for a commercial company of significance to national security;
2. make an entry in the register of stockholders or shareholders regarding the status of the capital company;
3. inform the shareholders or stockholders of the relevant capital company and persons who exercise indirect holding (right to vote), or members of the partnership regarding its conformity with the conditions for a commercial company of significance to national security;
4. inform the institution stipulated by the Cabinet of Ministers regarding its shareholders, stockholders and persons who exercise indirect holding (right to vote), or regarding members, as well as beneficial owners - natural persons who directly or indirectly have qualifying holding in this commercial company.

The Commercial Register Office shall publish the information regarding conformity of the commercial company with the conditions for a commercial company of significance to national security on the website of the Commercial Register Office.

Screening procedure

The restrictions specified in the National Security Law are applicable to a commercial company registered in the Republic of Latvia which conforms to at least one of the following conditions:

1. is an electronic communications merchant with a significant market power which has been imposed liabilities for tariff regulation and cost accounting in accordance with the procedures provided for in the Electronic Communications Law;
2. is an audible electronic mass medium the coverage zone of the programme of which, using technical means for terrestrial broadcasting, according to the broadcasting permit issued by the National Electronic Mass Media Council is Latvia or at least 60 per cent of its territory, or is an audio-visual electronic mass medium the coverage zone of the programme of which, using technical means for terrestrial broadcasting, according to the broadcasting permit issued by the National Electronic Mass Media Council is Latvia or at least 95 per cent of its territory;
3. has received a licence in the Republic of Latvia for transmission, distribution, storage of natural gas or has, in its ownership, a liquefied natural gas facility connected to a transmission system;
4. is an electricity or thermal energy producer the installed actual capacity of which exceeds 50 megawatts;
5. is a thermal energy transmission and distribution operator which has heat supply networks in its ownership in length of at least 100 kilometres;
6. has received a licence for electricity transmission in the Republic of Latvia.

Screening decision

A decision of the Cabinet is taken within one month from the day of receiving an application concerning any triggering scenarios. Upon taking a decision, the Cabinet of Ministers shall evaluate the restriction on the rights of the person, its commensurability with the national security interests, and the opinion of a State security institution, as well as the conformity with the principle of legitimate expectations.

Are fines or other penalties prescribed due to failure to notify the FDI?

If a person or several persons who act in a co-ordinated manner, obtain qualifying holding or decisive influence in a commercial company of significance to national security or become a member of such commercial company without receiving the permit from the Cabinet of Ministers, then a transaction concluded or action carried out in Latvia is not valid from the moment of concluding or carrying out.



Lithuania

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. A recast of the Republic of Lithuania Law on the Protection of Objects of Importance to Ensuring National Security, applicable as of 1 August 2020, provides, inter alia, new amendments regarding FDI, which shall apply from 11 August 2020.

Definition of FDI

FDI is defined as an investment:

- made by a foreign investor and
- the purpose of which is to establish or maintain permanent and direct links between a foreign investor and an economic entity established in the Republic of Lithuania, by acquiring at least 10% participation in capital or in voting rights.

Definition of foreign investor

Lithuania does not have a precise definition of a foreign investor. In the previously mentioned Law, investor from the Republic of Lithuania or a foreign investor shall mean a citizen of the Republic of Lithuania or another Member State of the European Union (EU) or of a member of the North Atlantic Treaty Organization (NATO), the European Free Trade Association (EFTA) and/or the Organisation for Economic Co-operation and Development (OECD) or a legal person or organisation established in these states, except for the cases where 1/4 or more of the voting rights at the meeting of participants of such a legal person or another organisation are held by a third country, legal persons controlled by it or its citizens.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
No	Yes, if the branch is being established in the economic sectors of strategic importance for national security.	No	Yes, if the company is being established in the economic sectors of strategic importance for national security. Yet having more than 10% voting rights would not trigger the screening, since it is only applicable from acquiring 25% or more shares of voting rights.	Yes	Acquisition of 25% or more voting rights in the Category I enterprise of importance to national security, Category II enterprise of importance to national security, economic sector of strategic importance or in the territory of the protection zone. Acquisition of 1/3 or more voting rights in the Category III enterprise of importance to national security.



Lithuania

Deadline for notification of the relevant screening body

Relevant screening body - the Commission (Commission for Coordination of Protection of Objects of Importance to Ensuring National Security) - must be notified before making the respective investment. Upon receipt of such notification, Commission initiates a procedure for the assessment whether the interest of the prospective investor complies with the national security interest. The respective investment cannot be made until the national security screening is completed.

An investor's transactions which are in conflict with national security interests shall be unlawful and invalid from the moment of conclusion thereof.

Screening procedure

The Commission shall review the respective investment. The decision on the review is limited to whether the interest of the prospective investor comply with national security interest of the Republic of Lithuania.

In determining whether an FDI may affect national security, the Commission shall take into account in particular, whether the applicant:

- is a dominant importer of fossil energy resources of any kind into the Republic of Lithuania, a person controlled by such importer or related thereto by cooperation or partnership relations;
- maintains or, in the past, maintained relations with institutions of foreign states or natural or legal persons from those states which increase the risk or pose a threat to national security;
- maintains or, in the past, maintained links with organised groups, special services or groupings of foreign states related to international terrorist organisations or maintaining relations with persons suspected of membership thereof;
- has, by an effective court judgement, been found guilty of a grave, serious or less serious crime under the Criminal Code of the Republic of Lithuania or of a crime under criminal laws of foreign states which corresponds to the elements of a grave, serious or less serious crime or the person is subject to criminal prosecution for commission of such crime and the investor's conviction for the committed crime has not expired or has not been expunged;
- has, by an effective court judgement, been found guilty of a crime/crimes against the independence, territorial integrity and constitutional order of the State of Lithuania and/or has, over the last 24 months, violated the provisions of legal acts regulating the activities of objects of importance to ensuring national security
- fails to provide proof of real possibilities to implement the actions provided from recommendations;
- has been notified by Commission of the envisaged verification of his conformity to national security interests and fails, within the time limit, to submit to the Commission the documents and information specified in the Rules of Procedure of the Commission and, due to failure to submit such documents and information, a decision that the investor conforms to national security interests is not adopted by the Commission or the Government;
- is an investor from a specific third country, given that in compliance with other laws he may not be an investor;
- poses a threat to security or public order of the EU member or EU project or programmes;
- there is other justified data concerning his non-conformity to national security interests.

Screening decision

In a review procedure Commission assesses the prospective investor's interest conformity with the national security interest. Commission adopts a conclusion not later than within 20 days from the date of launching verification, in which states that investor:

1. Conforms to national security interests
2. Possesses a risk to national security interests - in such case, recommendations are set compliance with which should prevent an investment from posing a threat to national security interests
3. Does not conform to national security interests

A conclusion on an investor's non-conformity to national security interests shall be submitted to the Government not later than within 2 working days following its adoption.

On the basis of the Commission's conclusion and recommendations the final decision on an investor's conformity to national security interests, substantiated de jure and de facto, and, where necessary, on the full or partial investment ban and compulsory requirements or conditions to be set shall be adopted by the Government within 15 days from the receipt of the Commission's conclusion and recommendations.

The Government's decision confirming an investor's non-conformity to national security interests shall imply that the investor's transactions or actions specified are in conflict with national security interests and that the investor may not conclude the transactions and/or perform actions specified in paragraphs until the causes posing a threat to national security interests indicated in the Government's decision are removed, provided that such causes may be removed, and the Government adopts a new decision confirming the investor's conformity to national security interests after having received the new conclusion and recommendations from the Commission.

Are fines or other penalties prescribed due to failure to notify the FDI?

Transactions which are in contrary to the national security are null and void from the moment of their conclusion. If an investor has acquired shares in the entity important for national security or has acquired the right to exercise non-property rights granted by the shares of the entity important for national security in violation of the requirements of the law or if the investor who has acquired shares in the entity important for national security has been acknowledged as being not in the interests of national security, such investor shall not have the right to participate and vote in the general meeting of shareholders of the company important for national security and may not exercise other non-property rights granted to him in violation of this law or the transfer of voting rights.



Poland

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. The new law on investment control is part of the government's Anti-Crisis Shield 4.0. These regulations were adopted as a result of the COVID-19 pandemic and the risk of taking over Polish companies that are crucial for public order, safety or health. New investment control regulations came into force on 24 July 2020.

Definition of FDI

FDI is defined as a transaction made by foreign investor resulting in the acquisition, achieving substantial shareholding or acquiring dominance of protected entities.

Protected entities are undertakings based in Poland that are crucial for maintaining public safety, order and health, inter alia

- conducting business activities related to: power, gas, fuels, telecommunications, food processing, manufacture of medicines, chemicals and fertilizers, explosives, weapons and ammunition, as well as military and/or police technologies;
- developing software for core services for society, such as energy, fuels, water supply, cash supply, card payments, hospitals, sales of prescription drugs, transport and food supply, and
- public companies regardless of the type and sector of activity;
- the prerequisite for protection is also a sufficiently high revenue of the company – it must exceed the equivalent of EUR 10 million in Poland in one of the two financial years preceding the intention to take it over.

Substantial shareholding is defined as:

- a. ownership of shares or stocks representing at least 20% the total number of votes, or
- b. holding a participation in a partnership of at least 20% of the value of all contributions made to that partnership, or
- c. holding a share in the profits of another entity of at least 20%;

Dominance position occurs when an entrepreneur has the power to decide on the direction of the activities of another entity, in particular in which it holds, directly or indirectly through other entities, a majority of the total number of votes in the bodies of the other entity or has the power to appoint or dismiss a majority of the members of the management or supervisory bodies.

The Act lists three main cases in which significant shareholding is acquired or achieved, namely:

1. obtaining a significant shareholding in an entity covered by protection by acquisition shares or stocks or rights attached to shares or stocks, or taking up shares or stocks, or
2. reaching or exceeding the thresholds of 20% and 40% of the total number of votes respectively in the body constituting the protected entity, a share in the entity's profits of the protected person or a shareholding in a partnership which is a protected entity in relation to the value of all contributions made to that company by acquiring shares or stocks or rights attached to shares or stocks, or taking up shares or stocks, or
3. acquisition or lease of an enterprise from a protected entity, or its organized part.

The acquisition of dominance is achieved through:

1. acquisition of shares or rights attached to shares or rights from shares or rights or taking up shares or stocks, or
2. conclusion of an agreement providing for the management of that entity or the transfer of profit by that entity

Definition of foreign investor

According to the Regulation, a foreign investor is the following:

1. a natural person who does not have Polish nationality;
2. a legal person who has not or has not had, for at least two years from the day preceding the notification of the transaction, a registered office in the member state of the EEA or the OECD who intends to make a transaction that falls within the scope of the regulation.



Poland

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
Yes (20% or more).	No. The regulation does not explicitly address whether the establishment of a company or its branch also falls within its scope, however it provides that transactions are exempt from the approval requirement where the target's turnover derived from sale of products and services does not exceed EUR 10 million in the territory of the RP.	No	No. The regulation does not explicitly address whether the establishment of a company also falls within its scope, however it provides that transactions are exempt from the approval requirement where the target's turnover derived from sale of products and services does not exceed EUR 10 million in the territory of the RP.	Not explicitly, however acquisition or lease of an enterprise from a protected entity, or its organised part (which may include transfer of assets) falls within the scope of regulation	<p>The screening shall be triggered by direct acquisition as well as by indirect (inter alia, made by a subsidiary of the entity or by an undertaking whose statutes or other act governing its operation contains provisions relating to the right to its asset for the benefit of the entity or acquisition made by an undertaking in its own name yet on behalf of another entity) or follow-up acquisition (the acquisition of substantial shareholding or dominance is an outcome of the following:</p> <ol style="list-style-type: none"> 1. redemption of shares or stocks in the protected entity or acquisition of own shares or stocks in that entity, 2. dividing the protected entity or merging it with other undertaking, 3. amendments to the agreement or statutes of the protected entity with respect to the preference of shares or stocks, participation in profits, establishment or change or abolition of rights vested in individual shareholders or participants of that entity).



Poland

Deadline for notification of the relevant screening body

Where an entity intends to acquire or achieve a substantial shareholding or dominance, and in the case of indirect acquisition, the notification shall be made before the conclusion of any agreement giving rise to an obligation to acquire or achieve a substantial shareholding or dominance, or before any other legal act or acts leading to the same (intended) effect. In case of follow-up acquisition, the notification needs to be filed within 7 days of the date of acquisition of substantial shareholding or dominance or, if it is not possible to determine the exact moment, within 30 days. During the whole process legal representation by a Polish attorney at law is mandatory.

Screening procedure

The procedure is split into two phases:

1. The first phase called preliminary verifying procedure is intended to distinguish between simple cases that do not require further examination and more complex ones. This phase is to last up to 30 days. It is expected that most of the cases will be completed in this phase. In such cases, the President of the Office of Competition and Consumer Protection will issue a notice of non-opposition. The Office shall strive to conclude cases that do not raise doubts as soon as possible.
2. Only a small number of specific cases will be referred to the appropriate control procedure (phase two), i.e. those that may pose a major threat to public order, public security or public health. According to the Office's guidelines, this shall refer to situations where, for example, there is a risk that an undertaking of substantial value for public interest might be forced to move abroad, close down its plant, siphon technologies or that this entity's business operations might be compromised otherwise. This phase of the procedure is to last a maximum of 120 days.

Screening decision

Within 30 working days of the initiation of the proceeding, the President of the Office of Competition and Consumer Protection (UOKiK) shall issue:

1. a decision refusing to initiate control proceedings and not objecting to acquiring or achieving significant participation or dominance, or
2. the decision to initiate an inspection procedure.

Control proceedings conducted by UOKiK shall end with the issuance of a decision authorizing or opposing the acquisition or achievement of a significant shareholding or acquisition of dominance over the protected entity, including in the case of indirect or subsequent acquisition.

Are fines or other penalties prescribed due to failure to notify the FDI?

Achieving or acquiring a significant shareholding or dominance in a protected undertaking without filing a notification or despite the President of UOKiK's objection will be null and void by law. This will also be subject to a fine of up to PLN 50 million and to imprisonment from 6 months to 5 years. Sanctions may also be ordered in combination.



Romania

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Romania is in the process of implementing (EU) Regulation no. 2019/452 through national legislation. A draft government emergency ordinance ("Draft GEO") was published on the Competition Council's website for public consultations, but has not yet been adopted.

As of today, Romania has notified only 1 (one) normative act to the EU Commission, pursuant to Article 3.8 Regulation (EU) 2019/452 on the obligation of the member states to notify their national screening mechanisms, namely: The Competition Law no. 21/1996 (more specific, Article 47 para. (9)-(12)). These provisions allow the Government, at the proposal of the Supreme Council of National Defense, to prohibit operations of taking control of enterprises or assets that pose risks to national security.

Definition of FDI

According to Article 2 letter b) of the Draft GEO:

FDI = an investment of any kind made by a foreign investor in order to establish or maintain lasting and direct links between the foreign investor and the entrepreneur, enterprise or its division thereof, which constitutes a unit separate organizational structure, to which these funds are made available or are going to be made available to them for carrying out an economic activity in Romania, and which allow the foreign investor to exercise control over the administration of the economic entity.

A foreign investment is also made when there is a change in the ownership structure of a foreign investor legal entity, if this change in what concerns the legal person makes it possible to exercise control, in a way directly or indirectly, by a:

1. a natural person who is not a national of a Member State of the European Union,
2. a legal person whose registered office is not in a Member State of the Union European or,
3. another legal entity, without legal personality, organized under the laws of a non-member state of the European Union.

Definition of foreign investor

According to Article 2 letter a) of the Draft GEO

A foreign investor is:

1. a natural person who is not a citizen of a Member State of the European Union who, has made or intends to make a foreign investment in Romania;
2. a legal person whose registered office is not in a Member State of the Union European Union that has made or intends to make a foreign direct investment in Romania;
3. a legal person whose registered office is in a Member State of the European Union, which has made or intends to make a foreign investment in Romania, in which the control is exercised directly or indirectly by: a natural person who is not a citizen of a Member State of the European Union, a legal person whose registered office is not in a Member State of the European Union or another legal entity, without legal personality, organized under the laws of a state that is not a member of the European Union;
4. a trustee of an entity without legal personality that has made or intends to make a foreign investment in Romania or a person in a similar position, if he is not a citizen of the European Union, in case of a natural person, or if it does not have its registered office in a Member State of the Union In the case of a legal person, or if that entity has been incorporated under the laws of a state which is not a Member State of the European Union.



Romania

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
It may, but needs to be corroborated with other triggers (e.g., as long as the 10% participation leads to a long-term change in the control structure)	Yes, if it qualifies as “new investment” as per the Draft GEO. “New investment” means initial investment in tangible and intangible assets located in the same perimeter, related to starting a new unit, expanding the capacity of a unit, diversification of a unit’s production through products that have not been manufactured previously in the unit or a fundamental change in the general production process of an existing unit. The establishment of a new unit represents the creation of a new one location for carrying out the activity for which funding is requested, technologically independent of other existing units. Extension capacity of an existing unit is an increase in production capacity in the existing location due to the existence of an unfulfilled request. Diversification of production of an existing unit means obtaining products or services that were previously made in that unit.	Yes, but needs to be corroborated with other triggers. (e.g., if it qualifies as a “new investment”)	It may, but needs to be corroborated with other triggers.	Yes, but needs to be corroborated with other triggers.	<ul style="list-style-type: none"> - Situations provided by Competition Law no. 21/1996, Decision no. 73/2012 and Government Emergency Ordinance no. 27/2020, amending the Petrol Law no. 238/2004 need to pose risks to national security. - Situations provided by NBR Regulation no. 4/2005 need to exert strong pressures on the foreign exchange market and cause serious disruptions in the application of monetary policy and the exchange rate.



Romania

Deadline for notification of the relevant screening body

As per the Draft GEO, the FDI cannot be implemented before obtaining an authorization decision issued by the competent national body – the Commission for the Examination of Foreign Direct Investment (CEISD). The exact procedure for submitting the authorization request will be adopted after the Draft GEO enters into force.

Screening procedure

Article 9 of the Draft GEO stipulates that CEISD will examine and settle the applications for authorization of FDI, mainly, considering the following:

1. the potential effects of FDI on:
 - a. critical infrastructure, whether physical or virtual, including infrastructure in the field of energy, transport, water, health, communications, media, AI data processing or storage, aerospace infrastructure, field infrastructure defense or electoral or financial infrastructure, on sensitive installations, as well as on land and real estate, essential for use such an infrastructure;
 - b. critical technologies and dual-use items, as defined in Article 2 (1) of Regulation (EC) No Council Regulation (EC) No 428/2009, including artificial intelligence technologies, robotics, semiconductors and cyber security, aerospace technologies, defense technologies and energy storage, quantum and nuclear technologies, and nanotechnologies and biotechnologies;
 - c. supply in relation to critical factors of production, including energy or raw materials, as well as on material security;
 - d. access to sensitive information, including personal data, or on the ability to control this information; or
 - e. freedom and pluralism of the media.
2. analyze, in particular: (a) if the foreign investor is directly or indirectly controlled by the government of a third country, including state bodies or its armed forces, including through the ownership structure or significant financing; (b) if the foreign investor has already been involved in activities affecting security or public order in a Member State; (c) if there is a serious risk that the foreign investor will carry out illegal or criminal activities.

CEISD will also analyze the situations provided by Decision no. 73/2012

In the situation where, compared to the specifics, the complexity of the authorization application or its impact on the national security or public order of Romania or on the projects or programs of interest to the European Union, CEISD may deem necessary to consult with the Supreme Council of National Defense (CSAT). CEISD will thus trigger a detailed investigation in relation to the application for authorization and inform the applicant immediately.

Only FDI with a value exceeding EUR 2.000.000 de euro (determined at the exchange rate of NBR in the last day of the year prior to the operation) are examined by CEISD. By exception, FDI with a lower value are subject to the examination only if, by their nature, they may have a significant impact on national security or public order or presents significant risks to them.



Romania

Screening decision

As per Article 9 para (2) of the Draft GEO, CEISD will issue an examination decision of by which it will settle the applications for authorization of the declared FDI (deemed as complete), as follows:

- a. authorization of FDI in Romania if it considers that they do not affect the national security or public order of Romania and, by their nature, do not affect projects or programs of interest for the European Union;
- b. conditional authorization of FDI in Romania in the situation where it considers that these can be performed through measures /behavioral or structural commitments of the foreign investor; in this situation, the FDI can be made or can continue to exist exclusively within the limits and according to the provisions and conditions specified in the conditional authorization decision;
- c. rejection of the application for authorization of the FDI in the situation where it considers that they affect the national security or public order of Romania or is likely to affect projects or programs of interest for the European Union;
- d. cancellation of the FDI in the situation in which it considers that it has been implemented by breaching the provisions of the Regulation or of the Draft GEO and it affects the national security or public order of Romania or, by its nature, it affect projects or programs of interest for the European Union;

The settlement of the application for authorization is made by CEISD within maximum 60 days from the date on which the application is deemed as complete, meaning that all requested documents and, if the case, requested notices have been submitted.

Are fines or other penalties prescribed due to failure to notify the FDI?

According to Article 12 of the Draft GEO, foreign investors are sanctioned with a fine between 1% and 5% of the total turnover achieved in the year prior to the sanctioning if the commit the following deeds, whether intentionally or through negligence:

- a. providing in an application for authorization of an FDI information which is inaccurate, incomplete or misleading;
- b. the implementation of a FDI without its authorization under the conditions of the Draft GEO;
- c. non-compliance with the behavioral or structural conditions / commitments assumed in a conditional authorization decision issued by CEISD;

The sanctioning decision issued by CEISD can be appealed before the Bucharest Court of Appeal within 30 days of communication.

Please comment on any other FDI review aspects you deem relevant in your jurisdiction (e.g. any specifics, exemptions, broader definitions etc.).

Not applicable



Slovakia

Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

A contact place for the implementation of the regulation for FDI screening was established under the scope of the Ministry of Economy of the Slovak Republic. There is no national legislation for the screening of FDIs, but the Ministry plans to draft a new legal act in this matter in the near future.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
N.A	N.A	N.A	N.A	N.A	N.A



Has your country implemented (or will implement) FDI screening rules? If yes, please specify.

Yes. Slovene Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic (hereinafter "ZIUOOPE"), applicable as of 31 May 2020, provides, inter alia, special provisions regarding the review of FDI, which shall apply until 30 June 2023.

Definition of FDI

FDI is defined as an investment:

- made by a foreign investor and
- the purpose of which is to establish or maintain permanent and direct links between a foreign investor and an economic entity established in the Republic of Slovenia, by acquiring at least 10% participation in capital or in voting rights.

Definition of foreign investor

Slovenia has adopted a broad definition, and it includes all non-Slovenian natural and legal persons, namely foreign investor is defined as a citizen of / a legal person established in:

- a Member State of the European Union,
- a country of the European Economic Area,
- the Swiss Confederation or
- a third country,

who intends to make the above mentioned FDI in the Republic of Slovenia, or has already done so.

Does the following scenarios trigger the screening? Please comment if needed.

Acquisition of 10% or more of voting rights in the company	Establishment of a new branch	The production of new products	Establishment of a new company in which foreign investor will have more than 10% voting rights	The transfer of use or operational rights in infrastructure or assets that are indispensable for the operation of strategic companies	Other screening triggers
Yes	Yes	Yes, subject to certain conditions	Yes	No	N.A



Deadline for notification of the relevant screening body.

The FDI must be notified to the Slovene Ministry of the Economic Development and Technology, who shall then review the respective investment. The Ministry must be notified within 15 days of:

- concluding a merger agreement or since the publication of the takeover bid;
- the establishment of a company; or
- concluding a contract by which a foreign investor or its subsidiaries in Slovenia acquire the right to dispose of land and real estate essential to critical infrastructure or are located in the vicinity of such infrastructure.

Screening procedure

The Slovene Ministry of the Economic Development and Technology shall review the respective investment. The decision on the review is limited to whether the FDI poses a threat to security or public order of the Republic of Slovenia, especially in cases where it affects ("risk factors"):

- critical infrastructure, physical or virtual, including infrastructure in the fields of energy, transport, water, health, communications, media, data processing or data storage, the aerospace sector, and defense, electoral or financial infrastructure and sensitive facilities, as well as land and real estate, which are essential for the use of such infrastructure or land and real estate located in the vicinity of such infrastructure;
- critical technologies and dual-use items as defined in point 1 of Article 2 of Council Regulation (EC) No. 428/2009, including artificial intelligence, robotics, semiconductors, cyber security, aerospace and defense technology, energy storage technology, quantum and nuclear technology, nanotechnology and biotechnology, and health, medical and pharmaceutical technology;
- the supply of critical resources, including energy or raw materials, food safety, medical and protective equipment;
- access to or control of sensitive information, including personal data;
- freedom and pluralism of the media;
- projects or programs in the interest of the European Union as defined in Annex I to Regulation 2019/452/EU.

In determining whether a FDI may affect security or public order, the Ministry shall take into account in particular:

- whether the foreign investor is directly or indirectly under the control of the government, including state authorities or the armed forces of a third country, including through an ownership structure or significant funding;
- whether the foreign investor has already been involved in activities that affect security or public order in a Member State;
- whether there is a serious risk that the foreign investor is engaged in illegal or criminal activities

Screening decision

In a review procedure the Ministry will decide whether a FDI is approved, determine the conditions for its implementation, prohibited or cancelled if it poses a threat to security or public order of the Republic of Slovenia. If the Ministry prohibits or cancels the FDI, this decision results in the annulment of the merger agreement or the contract by which the foreign investor acquired the right to dispose of land and real estate, or the decision to register the company in the court register or takeover bid.

Are fines or other penalties prescribed due to failure to notify the FDI?

Yes. The following fines are prescribed:

- up to 500.000 EUR for legal entities;
- up to 150.000 EUR for a sole proprietor and an individual who independently performs an activity;
- up to 10.000 EUR for the responsible person of a legal entity, the responsible person of an entrepreneur or the responsible person of an individual who independently performs an activity;
- up to 5.000 EUR for an individual.

Please comment on any other FDI review aspects you deem relevant in your jurisdiction (e.g. any specifics, exemptions, broader definitions etc.).

Slovene Ministry has the right to review all foreign direct investment in the relevant areas that has been made in the last five years and may cancel such an investment retrospectively. Namely, the cancellation of the investment means the nullity of the contract as well as the nullity of the decision on entry in the register or entry in the land register.



If you are considering investment opportunities in Central Europe, please get in touch with our team on the ground to discuss in more detail.

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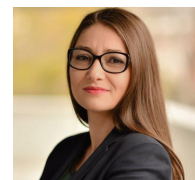
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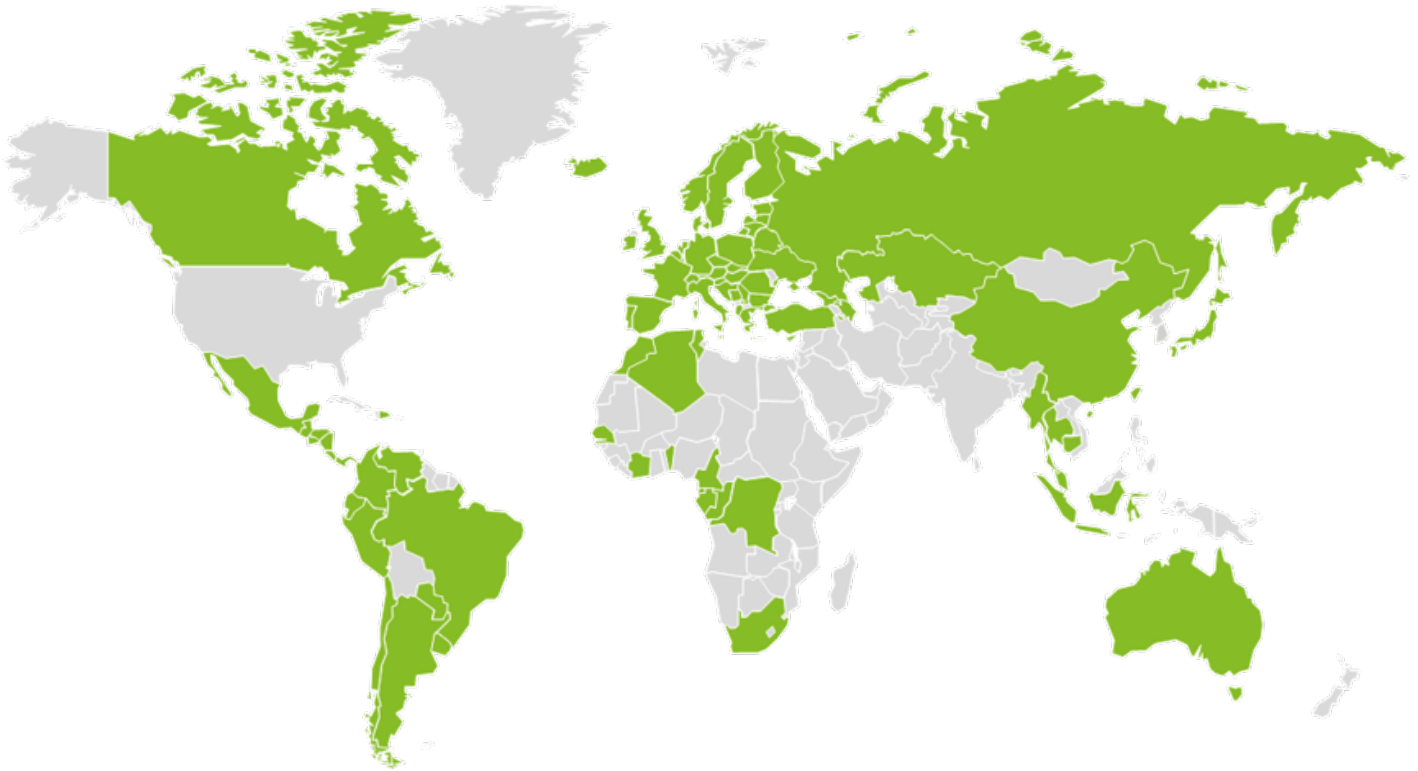
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