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Foreign Direct Investment Screening Mechanisms in Central Europe

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Navigating FDI screening in Central Europe: A Strategic Overview

On March 19, 2019, the European Union took a groundbreaking step in reshaping its approach to foreign investments with the enactment of EU Regulation 452. This landmark regulation, which came into full effect on October 11, 2020, introduced a Foreign Direct Investment (FDI) screening framework across all EU Member States. Its goal is to enable national governments to evaluate and monitor foreign investments in critical sectors, safeguarding key strategic interests from non-EU investors.

The FDI screening mechanism is designed with a dual objective: safeguarding the security and public order of the European Union while maintaining its position as an attractive and open investment destination. By implementing this regime, the EU seeks to strike a careful balance—welcoming foreign capital while protecting its most essential interests.

For the first time since the EU Merger Regulation, the European Commission has stepped into the realm of private transactions, providing oversight on foreign investments. However, there isn't a standalone foreign investment screening procedure at the EU level. Instead, each of the 27 Member States is required to establish a comprehensive national FDI screening mechanism. Currently, 24 of EU Member States had already enacted FDI screening legislation.

Some countries in Central Europe, both EU Member States and countries that are not EU Members, have adopted a screening mechanism similar with the one envisaged by the FDI Regulation. This publication offers a detailed overview of the current FDI regimes in Central Europe. Currently, the following countries—Bulgaria, Czech Republic, Kosovo, Lithuania, Poland, Romania, and Slovenia—have implemented specific FDI legislation. In contrast, Albania, Croatia, Serbia, and Ukraine apply various regulations but have yet to implement a dedicated FDI regime.

The legal landscape of the FDI screening is continuously changing and a revised FDI Regulation is expected to come into force in the near future.

We hope you will find this publication helpful to your work and will be pleased to connect with you to discuss the regulations and how we can support you in navigating them.

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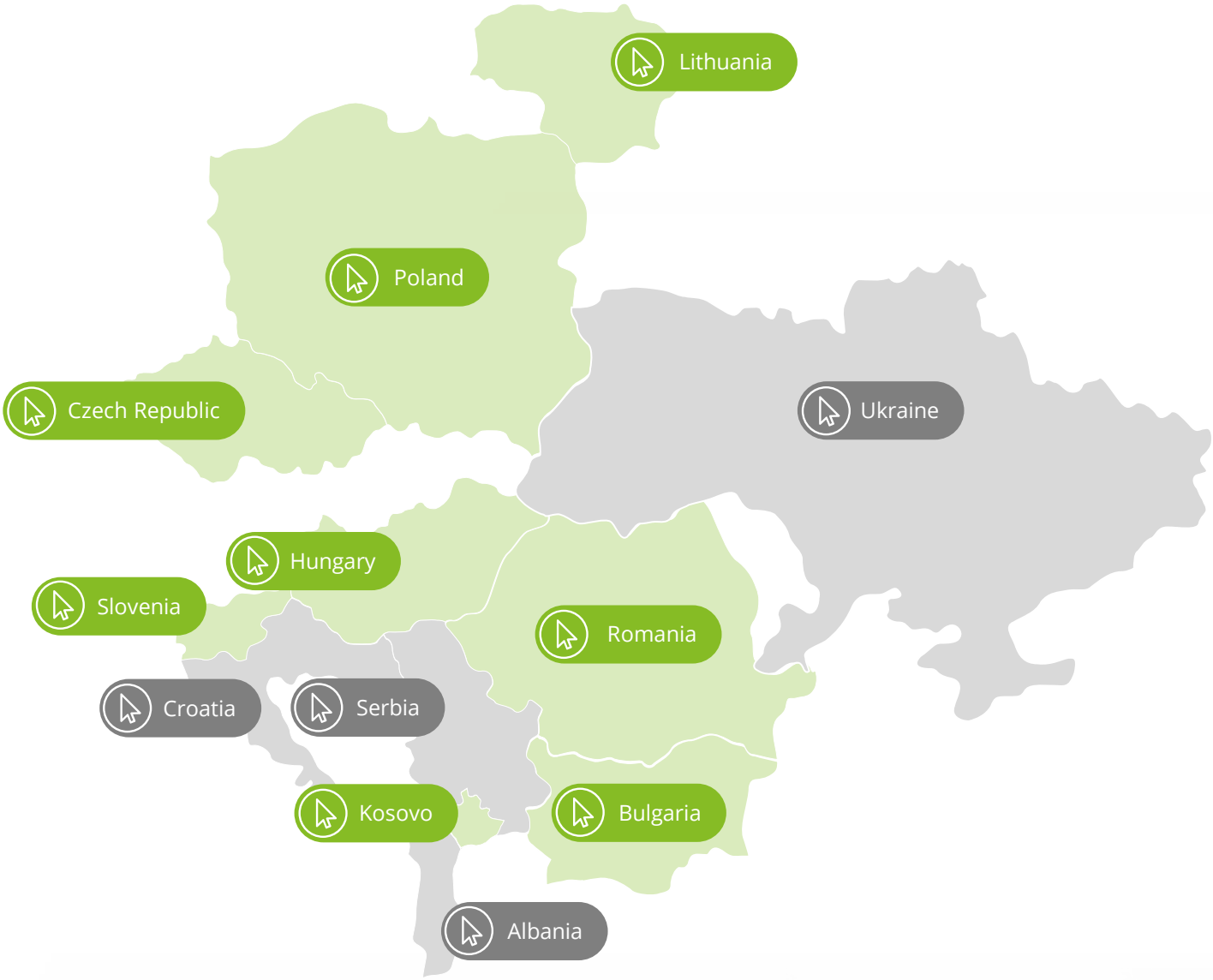
in Central Europe



Not enacted yet

- Albania
- Croatia
- Serbia
- Ukraine

Enacted

- Bulgaria
- Czech Republic
- Hungary
- Kosovo
- Lithuania
- Poland
- Romania
- Slovenia

Foreign Direct Investment Screening Mechanisms in

Albania

Albania[1]

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

No, the main piece of legislation governing FDI in Albania is Law no. 7764, dated 2.11.1993 "On Foreign Investments", as amended (the **"Law on Foreign Investments"**). While, in principle, this Law provides that the state may take measures concerning national security or public order (article 10), the Republic of Albania has not yet implemented a formal national screening mechanism.

Discretionary review procedures can be found in sectoral laws, such as in the legislation governing the exploration and production of hydrocarbons in Albania (Law no. 7746, dated 28.7.1993 "On hydrocarbons (explorations and production)", as amended), which empowers the competent ministry to decline to enter into or transfer hydrocarbon agreements if there are concerns about national security.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

Albania has no formal screening mechanism in place.

As regards the review procedures in the hydrocarbons sector, the Law no. 7746, dated 28.7.1993 "On hydrocarbons (exploration and production", as amended, applies to any investor about whom national security issues may be raised.

What are the conditions which trigger the FDI authorization procedure?

Albania has a liberal regime and has not put in place an FDI authorization procedure. Pursuant to article 2, point 1 of the Law on Foreign Investments, foreign investments are not subject to prior authorization by the state.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

Please see answers to questions 1 & 2.

Is the FDI screening mechanism aligned with the European Union's Regulation 452/2019?

No, the Republic of Albania has not put in place an FDI screening mechanism in the meaning of Article 2(4) of EU Regulation 452/2019.

However, since the Republic of Albania and the EU have opened accession negotiations, it is expected that the Republic of Albania will fully align its domestic legislation with EU acquis in the coming years.

[1] Albania is a non-EU member state with no formal screening mechanism in place.

What type of investments are subject to the screening and authorization obligation?

Albania has no formal screening mechanism in place.

In principle, as mentioned in the answer to Question 1, the state may adopt measures concerning national security and public order with regard to foreign investments and foreign investors as defined by the Law on Foreign Investments.

Pursuant to article 1 of the Law on Foreign Investments, "foreign investment" means any type of investment on the territory of the Republic of Albania that is owned directly or indirectly by a foreign investor and consists of:

a) Movable or immovable property, tangible or intangible, or any other type of property rights;

b) A company, or rights deriving from any form of participation in a company, such as shares;

c) Loans, monetary liabilities or liabilities in an activity having economic value and 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; or

e) Any right recognized by law or by contract, or any license or permit granted in accordance with the law.

The main criterion is direct/indirect ownership by a foreign investor.

Pursuant to article 1 of the Law on Foreign Investments, a “foreign investor” includes any person that is directly or indirectly intending to make or 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 July 1990 onwards, where that person is:

a) A natural person who is a national of a foreign country;

b) A natural person who is a citizen of the Republic of Albania, but with permanent residence abroad;

c) A legal person established under the law of a foreign country; or

d) A Community Company within the meaning of Article 49 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part (“SAA”). Article 49 of SAA defines a community company as a company set up in accordance with the laws of an EU member state and having its registered office/principal place of business in the territory of the Community.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdiction in certain sectors?

Yes, there are some restrictions on foreign ownership in certain sectors in Albania, such as:

- Air passenger transportation: Foreign ownership in licensed air carriers is limited, with majority ownership and control typically required to be Albanian or of states party to the European Common Aviation Area[1].
- Fishing activity: Foreign ownership in Albanian-flagged vessels or commercial fishing companies is capped at 49%[2].
- Land: Foreigners cannot purchase agricultural land but can lease it for up to 99 years[3]. Moreover, foreign legal entities can purchase land for investments (e.g. constructible land) only after completing an investment with a value at least three times that of the land[4].

[1] Article 20, letter dh) of Law no. 96, dated 23.07.2020 “On the Air Code in the Republic of Albania”;
[2] Article 30, point 6 of Law no. 64, dated 31.05.2012 “On Fisheries”, as amended;
[3] Article 4 of Law no. 8337, dated 30.04.1998 “On the Transfer of Ownership of Agricultural, Forest, Meadow and Pastures”;
[4] Article 5 of Law no. 7980, dated 27.7.1995 “On sale and purchase of land”, as amended;

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Foreign Direct Investment Screening Mechanisms in

Bulgaria

Bulgaria

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, a Bulgarian national mechanism for the screening of foreign direct investments was established on 8 March 2024 through amendments made to the Bulgarian Investment Promotion Act ("**IPA**"). The aim of embedding these new provisions in the IPA was to implement the rules and measures provided for in the EU FDI Screening Regulation.

An Interdepartmental Council for Screening of Foreign Direct Investments ("**Interdepartmental Screening Council**") has been established under the Council of Ministers. The Interdepartmental Screening Council is a permanent collective body that examines the applications received for the implementation of foreign direct investments.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

Yes, the FDI screening mechanism applies to non-EU investors and to EU-based legal entities where the natural person(s) ultimately exercising direct or indirect control over the entity or over the investment is a third county national. Local investors are not subject to the screening obligation.

What are the conditions which trigger the FDI authorization procedure?

Foreign direct investments that have an impact on the sectors described in Article 4(1) of the EU FDI Regulation are subject to screening if they meet one of the following conditions laid down in the IPA:

a) The investment will result in the acquisition of ownership of at least 10% of the capital of an enterprise operating in Bulgaria, or the value of the investment exceeds the threshold of EUR 2,000,000 or its BGN equivalent;

b) The investment will result in the acquisition of ownership of at least 10% of the capital of an enterprise operating in Bulgaria and carrying out high-tech activities; or

c) A new investment is being made which exceeds the threshold of EUR 2,000,000 or its BGN equivalent.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

As mentioned in the answer to Question 3, the sectors outlined in Article 4(1) of the EU FDI Regulation are subject to screening in Bulgaria.

Is the FDI screening mechanism aligned with the European Union's Regulation 452/2019?

Yes.

In addition, the following investment categories are subject to screening:

- All investments carried out by Russian or Belarusian investors;
- Investments concerning the production of energy products from petroleum and petroleum-derived products in facilities that are part of or adjacent to critical infrastructure;

- By way of exception, new foreign direct investments that do not exceed the threshold of EUR 2,000,000 or its BGN equivalent may be subject to consideration and authorization by the Interdepartmental Screening Council on the proposal of one of its members who is competent in the sector in which the investment is to be implemented, in consultation with the representatives of the Bulgarian State Agency for National Security and the Bulgarian State Intelligence Agency;
- Low risk countries, according to the list approved by the Bulgarian National Assembly acting on proposal of the Bulgarian Council of Minister, are also subject to the EU-based investors regime. The EU-based investors regime also applies to the United States of America, United Kingdom of Great Britain, Canada, Australia, New Zealand, Japan, Republic of Korea, United Arab Emirates and Kingdom of Saudi Arabia, which are listed as low risk countries in the IPA.
- Upon the reasoned request of the Bulgarian State Agency for National Security and the Bulgarian State Intelligence Agency, a foreign direct investment is subject to screening by the Interdepartmental Screening Council notwithstanding the criteria described in the answer to Question 3 where there are indications that the investment could affect security and public order.
- Notwithstanding the investment thresholds, foreign direct investments are subject to screening where a non-EU state holds, either directly or indirectly, an ownership interest in the capital of the foreign investor, including by means of significant funding by a state body. Where the foreign investor is a company whose shares are traded on a regulated market, the above also applies if a non-EU state holds a direct or indirect ownership interest of more than 5% in the capital of that company. This procedure does not apply to the low risk countries included in the list compiled by the Bulgarian National Assembly and included in the IPA.

What type of investments are subject to the screening and authorization obligation?

Under the IPA, foreign direct investments are subject to screening. A "foreign direct investment" is defined as an investment of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the enterprise to which the capital is made available in order to carry on an economic activity in Bulgaria, including investments which enable effective participation in the management or control of a company carrying out an economic activity. Foreign direct investment also includes the expansion of an existing investment, including expansion of the capacity of an existing enterprise, diversification of the production of an enterprise into products that have not been produced theretofore, as well as the setting up of a new place for carrying out the activity or an increase in the capital of the investee where shares are being acquired by a foreign investor. A portfolio (passive) investment is not considered to be foreign direct investment.

Under the IPA, a "foreign investor" is defined as:

a) a person who is not a citizen of a Member State of the European Union or whose registered office is not located in a Member State, having made or intending to make a foreign direct investment in Bulgaria;

b) a legal person whose statutory seat is in a Member State of the European Union, having made or intending to make a foreign direct investment in Bulgaria, wherein control is directly or indirectly exercised, by (i) one or more natural persons who are not citizens of a Member State of the European Union, (ii) one or more legal persons whose registered offices are not in a Member State of the European Union or (iii) another legal entity organized according to the laws of a country that is not a Member State of the European Union;

c) a legal person or another legal entity whose statutory seat is in a Member State of the European Union, having made or intending to make a foreign direct investment in Bulgaria, wherein, by virtue of a contract or internal rules, one or more natural or legal persons established in countries outside the European Union exercise direct or indirect control over the particular investment, or which, by virtue of a contract or multilateral transaction, makes a foreign direct investment falling within the scope of its IPA, on its own behalf but for the account of a person referred to in (a) and (b) above.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

There are no specific thresholds.

Refer to the answer to Question 5 and, for specific exceptions to the general regime, the answer to Question 3.

Are there any exemptions or simplified procedures available for certain types of investors (e.g. small investments, intra-EU investments)?

Pursuant to the IPA, no exemptions or simplified procedures are available to certain types of investors.

What is the notification procedure for FDI?

Prior to making an investment, the foreign investor must submit an application to the Interdepartmental Screening Council through the Bulgarian Investment Agency. This application must be submitted at the same time as applying for an authorization, a license or entry in a register provided for in another law.

The Interdepartmental Screening Council may make a decision to approve, deny or provisionally authorize an investment in compliance with the restrictive measures set out in the IPA.

The relevant investment can be made once a permit has been issued by the Interdepartmental Council. The Interdepartmental Screening Council has the power to carry out screening of investments ex officio where the conditions set forth in the IPA are met.

How long does the FDI screening process typically take?

The Interdepartmental Council makes a decision regarding the implementation of a foreign direct investment within 45 days of receiving the application or within 45 days of any non-conformities in that application having been remedied.

What are the penalties for non-compliance with FDI notification or screening requirements?

Any investor who does not comply with the IPA regime is subject to administrative and criminal liability. A fine of 5% of the value of the planned investment, but not less than BGN 50,000, may be imposed on an investor who makes an investment without a permit issued by the Interdepartmental Screening Council, or on a foreign investor who provides inaccurate, incomplete or misleading information in an application for investment authorization, etc.

The Interdepartmental Screening Council may, notwithstanding any fines, impose on the foreign investor restrictive measures to ensure security or public order, including a change in control, change and/or cessation of activity, termination of direct foreign investment and other appropriate measures.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

Yes.

The decisions of the Interdepartmental Screening Council regarding applications for foreign direct investment permits are individual administrative acts and can be appealed under in accordance with the provisions of the Bulgarian Administrative Procedure Code.

Are there any publicized cases or examples where an FDI screening decision led to rejection or modification of a foreign investment?

No, there are no publicized cases or examples in Bulgaria of an FDI screening decision having led to rejection or modification of a foreign investment.

Are there specific guidelines or publications available for foreign investors regarding the FDI screening process in the jurisdiction?

No, there are no specific guidelines or publications available for foreign investors regarding the FDI screening process in Bulgaria.

Additional comments.

The Bulgarian Council of Ministers adopted rules for the organization and activity of the Interdepartmental Screening Council. Pursuant to the adopted rules the decisions to issue or refuse to issue a permit are taken by a majority of all members. The representatives with consultative functions in Interdepartmental Screening Council do not vote the decisions.

The procedure to apply for a permit to carry out a foreign direct investment is to be set out in the Rules for Implementation of the IPA.

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Foreign Direct Investment Screening Mechanisms in

Croatia

Croatia

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

No, currently, there are no national laws governing the screening of foreign direct investments in Croatia. However, a Law on the Screening of Foreign Direct Investments is scheduled for enactment in the first quarter of 2025.

In addition, the Croatian government has enacted a Regulation on the Implementation of the FDI Screening Regulation, which established the competent authorities and their responsibilities for the screening of foreign direct investments in Croatia for reasons of security or public order, thereby laying the groundwork for the effective implementation of the FDI Screening Regulation. The competent authorities established are the National Contact Point (Ministry of Economy and Sustainable Development) and the Interdepartmental Commission for the Screening of Foreign Direct Investments in the Union.

In this regard, in 2020 the Ministry of Economy and Sustainable Development adopted a Decision on the Establishment of the Interdepartmental Commission for the Screening of Foreign Direct Investments in the Union. The Commission consists of representatives from: the Ministry of Economy and Sustainable Development, the Ministry of Foreign and European Affairs, the Ministry of the Interior, the Ministry of Defence, the Ministry of Finance, the Ministry of Justice and Administration, the Office of the National Security Council, and the Croatian National Bank.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

As mentioned above, a formal screening mechanism has yet to be adopted in Croatia.

What are the conditions which trigger the FDI authorization procedure?

A formal screening mechanism has yet to be adopted in Croatia. In accordance with the FDI Screening Regulation, the authorization procedure will likely be triggered under specific conditions that will be defined by national law, in alignment with the FDI Screening Regulation, and will target investments that may impact national security or public order.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

Refer to the answer to Question 1.

Is the FDI screening mechanism aligned with the European Union's Regulation 452/2019?

As mentioned in the answer to Question 1, a law is scheduled for enactment in 2025, which is aimed at establishing a transparent mechanism in accordance with Articles 3 and 4 of the FDI Screening Regulation.

As a member of the European Union, Croatia is required to adhere to the framework laid down by the FDI Screening Regulation for the screening of foreign direct investments.

The National Contact Point is responsible for coordinating and cooperating with the competent contact points in other Member States of the EU and the European Commission on all matters related to the implementation of the FDI Screening Regulation.

What type of investments are subject to the screening and authorization obligation?

The aim of the planned national law is to enable Croatia to safeguard its national interests and critical infrastructure in a way that, in accordance with the legislative framework set out in the FDI Screening Regulation, facilitates the public and transparent assessment of investments that may pose a threat to national security and public order.

Additional comments.

To establish a screening mechanism, the Ministry of Finance has initiated the drafting process for a Law on the Screening of Foreign Direct Investments, which will outline the procedures and mechanisms for their control. This law is scheduled for enactment in the first quarter of 2025.

The law aims to establish a transparent mechanism that would enable Croatia to safeguard its national interests and critical infrastructure in accordance with the EU legislative framework, thus allowing for a public and transparent evaluation of investments that could pose a threat to national security and public order.

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Foreign Direct Investment Screening Mechanisms in

Czech Republic

Czech Republic

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, the Czech Republic has implemented a national mechanism for screening foreign direct investments in accordance with Regulation (EU) 2019/452. The regulatory framework is established by Act No. 34/2021 Coll., on the Screening of Foreign Investments and on Amendments to Related Acts (the Act), which came into effect on May 1, 2021.

The regulatory body responsible for overseeing FDI screening is the Ministry of Industry and Trade (the "Ministry").

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

The FDI screening mechanism in the Czech Republic applies primarily to non-EU investors. However, it also covers EU investors (including Czech investors) who are directly or indirectly controlled by entities from third countries (non-EU countries).

A foreign investor is defined as:

a) A person who is not a citizen of the Czech Republic or another EU member state

b) An entity that does not have its registered office in the Czech Republic or another EU member state

c) An entity directly or indirectly controlled by someone meeting the criteria in a) or b)

d) A trustee of a trust or similar legal arrangement investing in the Czech Republic, where any of the following parties meets the criteria in a), b), or c):

- the trust's founder;
- any trustee;
- any person with oversight powers;
- any beneficiary;
- any person in whose primary interest the trust was establishes or is managed.

Local investors who are not controlled by non-EU entities are generally not subject to screening obligations.

What are the conditions which trigger the FDI authorization procedure?

The conditions triggering the FDI authorization procedure in the Czech Republic depend on the sector and nature of the investment. There are two main categories:

a) Mandatory pre-approval – Investments in certain sensitive sectors require approval before they can be implemented:

- Manufacturing, research, development, innovation, or life cycle management of military material;
- Critical infrastructure elements;
- Information systems of critical information infrastructure, communication systems of critical information infrastructure, information systems of basic services, or operation of basic services;
- Development or production of dual-use items listed in Annex IV of Council Regulation (EC) 428/2009

b) Potential screening – For investments not falling under a) but potentially capable of threatening national security or public order. The Ministry can initiate a screening procedure either based on a consultation proposed by the foreign investor or within 5 years of the investment's completion, if the investor did not propose a consultation. These potential investment areas may include:

- Energy, transportation, water management, and healthcare infrastructure;
- Critical technologies and dual-use items (including AI, robotics, semiconductors, cybersecurity, aerospace, quantum and nuclear technologies, nanotechnology, and biotechnology) ;
- Supply chains related to energy, raw materials, or food security;
- Access to sensitive information;
- Media with potential to significantly influence public opinion.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

Please see the response to Question 3.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

Yes, the Czech FDI screening mechanism is aligned with EU Regulation 2019/452.

What type of investments are subject to the screening and authorization obligation?

The Czech FDI screening mechanism applies to two main categories of investments, as outlined in our response to Question 3:

a) Investments requiring mandatory pre-approval;

b) Investments subject to potential screening due to their capability to threaten national security or public order.

Within these categories, the following types of investments are subject to scrutiny:

a) Acquisitions of at least 10% voting rights in Czech legal entities, including shares held by entities under common control or acting in concert with the foreign investor;

b) Membership of the foreign investor or a closely related person in the governing bodies of the target entity;

c) The ability of a foreign investor to exercise ownership rights over assets used for economic activities;

d) Other control forms allowing the foreign investor access to information, systems, or technologies critical to national security or public order.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdiction in certain sectors?

Yes, the Czech FDI screening mechanism applies specific thresholds across sectors that are subject to mandatory pre-approval or are potentially subject to screening, as outlined in our response to Question 6.

Investments falling below the 10% threshold and not meeting other effective control criteria are generally not subject to mandatory screening, regardless of the sector.

There are no absolute interdictions in specific sectors. However, investments in sensitive areas are subject to stricter scrutiny and may be more likely to face restrictions or conditions.

Are there any exemptions or simplified procedures available for certain types of investors (e.g., small investments, intra-EU investments)?

EU investors not controlled by non-EU entities or persons are not considered foreign investors under the Act, exempting them from the screening process.

Additionally, the Act provides exemptions for certain investments in the financial sector. Specifically, if a foreign investment is undertaken as part of recovery procedures, early intervention measures, or crisis resolution according to financial market regulations, or if it is urgently needed to prevent the collapse of a financial services provider, the usual review requirements do not apply. Additionally, the Ministry can conduct an ex-officio review of such investments. The Czech National Bank, with the consent of the target entity, will inform the Ministry and the foreign investor if the investment falls under these criteria. If, during the investment process, it becomes a foreign investment subject to the usual review, the applicable provisions will then apply accordingly.

What is the notification procedure for FDI?

The notification procedure for FDI in the Czech Republic varies depending on the nature of the investment:

a) For investments in sectors that are subject to mandatory pre-approval

- The foreign investor must apply for approval before proceeding with the investment.
- The application must include detailed information as required by the Act (such as the name and registered office of the legal entity or individual, ownership structure, source of financing, amount of the investment, information about the target entity, and the nature of the proposed investment).
- The Ministry may request additional supporting documentation, such as business plans, ownership structures, and financial information, to assess and approve the investment.

b) For investments that may be subject to potential screening

- Foreign investors may voluntarily submit a proposal for consultation to determine if their investment might be subject to screening.
- For investments in mass media (nationwide TV or radio broadcasting, or high circulation print media), submitting a proposal for consultation is mandatory.
- The Ministry has the authority to initiate screening procedures on its own initiative (Ex Officio) within 5 years of the investment's completion, unless the investor has already proposed a consultation.

All applications and proposals must be submitted to the Ministry using standardized forms established by Government Decree No. 178/2021 Coll.

How long does the FDI screening process typically take?

The Czech FDI screening process has well-defined timeframes established by law, which vary depending on the type of procedure and the complexity of the case.

a) Consultation procedure – When an investor submits a proposal for consultation, the Ministry has up to 45 days from the receipt of the proposal to notify the investor whether a full screening procedure will be initiated. This initial phase allows for a preliminary assessment of whether the investment poses potential risks to national security or public order.

b) Full screening procedure – The standard duration of the full screening procedure is up to 90 days from the initiation. In particularly complex cases, this period can be extended by up to 30 days. During this time, the Ministry conducts a comprehensive assessment of the investment, which may involve consultations with other government bodies and security agencies.

c) Government consideration – In cases of particular sensitivity or strategic importance, if the matter is referred to the Government for consideration, an additional duration of up to 45 days may be added to the overall timeline. During this time, the government may be involved in the decision-making process.

The total maximum duration of the process can vary. In a standard case, it can take up to 135 days (45 days for consultation + 90 days for full screening). In more complex cases involving government consideration, it can extend up to 210 days (45 days for consultation + 90 days for full screening + 30 days extension + 45 days for government involvement). If it is determined during the consultation that full screening is not needed, the duration is limited to just 45 days.

What are the penalties for non-compliance with FDI notification or screening requirements?

The penalties for non-compliance with FDI notification or screening requirements are significant and vary based on the specific violation.

a) **Fines for violating prohibitions or conditions** – the maximum penalty for violating prohibitions or conditions is up to 2% of the foreign investor's total net turnover for the last completed accounting period. This applies to cases where an investor fails to comply with a decision prohibiting the continuation of a foreign investment or violates conditions set in conditional approval decisions. If the turnover cannot be determined, fines can range from 100,000 CZK to 100,000,000 CZK (approximately €3,900 to €3.9 million).

   - Additionally, the Ministry may prohibit the further continuation of a foreign investment if the conditions of conditional approval are violated or if the investment is made against a decision denying authorization, thereby threatening the security or public order of the Czech Republic.

b) **Fines for unauthorized investments in sensitive sectors** – The maximum penalty for unauthorized investments where pre-approval is mandatory is up to 1% of the foreign investor's total net turnover for the last completed accounting period. This applies to cases where an investment is implemented in sensitive sectors without obtaining the required permission, or where the investor fails to submit a mandatory consultation proposal for media investments. If the turnover cannot be determined, fines range from 50,000 CZK to 50,000,000 CZK (approximately €1,950 to €1.95 million).

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

Yes, although decisions by the Ministry are final and cannot be appealed through an administrative appeal (this also applies to decisions involving the Government resolutions), they may still be challenged through a judicial review process. Nonetheless, filing a lawsuit does not have suspensive effect, meaning the decision remains in force during the appeal process. Consequently, investors must comply with the decision while the judicial review is pending.

Are there any publicized cases or examples where an FDI screening decision led to a rejection or modification of a foreign investment?

No, to the best of our knowledge, to date, there are no publicly known cases of FDI screening decisions in the Czech Republic resulting in the rejection or significant modification of a foreign investment.

Are there specific guidelines or publications available for foreign investors regarding the FDI screening process in the jurisdiction?

To the best of our knowledge, there are no official guidelines issued by the Ministry. However, the Ministry has organized a series of webinars on the topic, both Czech and English.

Additionally, foreign investors can directly contact the Ministry for inquiries or clarifications via email at fdi-screening@mpo.cz.

Furthermore, the Ministry publishes Annual Reports on the screening of Foreign Investments, which offer an overview of the FDI landscape, statistics on screened investments, and trends in foreign investments in the Czech Republic.

Importantly, Czech legislation provides for a consultation mechanism. This allows investors to initiate a process with the Ministry to determine whether their planned investment is subject to FDI screening obligations. Through this proactive approach, investors can clarify their position early on, potentially avoiding unnecessary sanctions or prolonged processes.

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Foreign Direct Investment Screening Mechanisms in

Hungary

Hungary

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, FDI Screening regulation in Hungary consists of:

a) The **General FDI Regime**, based on:

- Act no. LVII of 2018 on the control of foreign investments violating Hungary's security interests;
- Government Decree no. 246/2018. (XII. 17.) on the implementation of the act on the control of foreign investments violating Hungary's security interests; and

b) The **Special FDI Regime**, based on:

- Government Decree no. 561/2022. (XII. 23.) on the different application of certain provisions necessary for the economic protection of Hungarian economic enterprises during a state of emergency.

These two FDI regimes may be applicable in parallel to each other, and a foreign investment falling within the scope of one or both FDI regimes cannot be completed without the prior acknowledgements of the competent Hungarian ministers.

The competent bodies are the following:

a) In the case of the General FDI Regime, the Minister leading the Prime Minister's Cabinet Office; and

b) In the case of the Special FDI Regime, the Minister of National Economy.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

a) The **General FDI Regime** applies to foreign investors, more specifically:

i. Non-EU/EEA/Swiss nationals or entities; or

ii. EU/EEA/Swiss entities controlled by a non-EU/EEA/Swiss national or entity.

b) The **Special FDI Regime** applies to foreign investors, more specifically:

i. Non-EU/EEA/Swiss nationals or entities; or

ii. EU/EEA/Swiss entities controlled by a non-EU/EEA/Swiss national or entity;

iii. In certain cases, also "non-foreign" EU/EEA/Swiss investors.

Local investors can be subject to FDI screening in cases where the local investor is controlled by a foreign entity or foreign nationals.

What are the conditions which trigger the FDI authorization procedure?

Two conditions trigger both FDI Regimes: the investor shall qualify as a foreign investor (refer to answer to Question 2) and the transactions shall fulfil the criteria listed in the answer to Question 6.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

a) General FDI Regime:

FDI screening under the General FDI Regime applies to entities active in the following activities:

i. Activities traditionally deemed to be "sensitive" – e.g. manufacturing of arms, dual-use items and secret service equipment;

ii. Activities that fall under the Hungarian Gas Act, Water Supply Act, Electricity Act, Credit Institutions Act, Electronic Communications Services Act or Insurance Services Act; and

iii. Activities that involve the creation, development or operation of the communication systems of Hungary and of its municipalities.

b) Special FDI Regime:

FDI screening under the Special FDI Regime applies to entities whose registered activity is included in the extensive list of relevant economic activities (identified by statistic nomenclature ("NACE") codes in Annex 1 of the legislation), which include:

- Manufacturing of medicines; medical devices or other chemicals;
- Fuel production;
- Telecommunications;
- Retail and wholesale;
- Manufacturing of electronic devices, machinery, steel and vehicles;
- Defense industry;
- Power generation and distribution;
- Services connected to state of emergency;
- Financial services;
- Processing of food (including meat, milk, grains, tobacco, fruits and vegetables);
- Agriculture;
- Transport and storage;
- Construction (including the production of building materials);
- Healthcare;
- Hospitality and cafeteria services.

The Special FDI Regime grants Hungary a statutory pre-emption right in respect of domestic strategic target companies that are engaged in a photovoltaic activity and have that strategic activity registered as their main or additional activity in the companies register, excluding companies engaged in small household power plants (i.e. below 50 kVA). The Hungarian State can exercise this pre-emption right in the course of the FDI approval process initiated by the acquiring investor.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

Yes. Both regulations contain a number of references to the FDI Screening Regulation. Government Decree no. 246/2018. (XII. 17.) on the implementation of the act on the control of foreign investments violating Hungary's security interests contains a number of references to the FDI Screening Regulation and imposes the obligation on the Minister for Foreign Economic Affairs to cooperate with member states through the information system defined in the FDI Screening Regulation.

What type of investments are subject to the screening and authorization obligation?

a) General FDI Regime:

The following investments are subject to the screening obligation under the General FDI Regime:

i. Direct or indirect acquisition of an interest of more than 25% (in the case of publicly listed companies, more than 10%) in an existing or yet to be established company with its registered seat in Hungary, where this company pursues activities that are deemed sensitive for national security

ii. Acquisition of decisive influence in a company pursuing activities deemed sensitive for national security pursuant to the Hungarian Civil Code (i.e. acquisition of an interest of less than 25% in a privately held company registered in Hungary, which nevertheless brings the total interest held by foreign investor(s) to above 25%);

iii. Establishment of a branch office in Hungary, where such office pursues activities in Hungary that are deemed sensitive for national security;

iv. A company registered in Hungary in which foreign investor(s) hold an interest equivalent to that mentioned in point (i) or (ii) above, where that company takes up a listed strategic activity.

v. Acquisition of a right to operate or use sensitive infrastructure or assets.

All of the transactions above must undergo FDI screening, regardless of transaction value.

b) Special FDI Regime:

A foreign investor must obtain the prior approval of the competent minister if it intends to acquire – by way of acquisition (including in-kind contributions, or other types of acquisitions, whether for free or for consideration), capital increase, merger, demerger or other transformation, issue of bonds or establishing of a usufructuary right over its share(s) or quota(s) – an interest (directly or indirectly) in a company carrying out the activities listed in Answer 4 part (b) above (**"Strategic Company"**), which is registered in Hungary and active in a specified industrial sector (as indicated by NACE codes), provided that the following conditions apply:

a. The value of the transaction exceeds **HUF 350 million (approx. EUR 850,000)** and results in:

   i. Direct or indirect majority control over a Strategic Company, if the investor is a company or other organization domiciled in the EU, EEA or Switzerland without any third-state element; or

   ii. At least a 5% interest in a Strategic Company, or a 3% interest in a publicly listed Strategic Company; or

b. The transaction results in the acquisition of:

   i. A 10%, 20% or 50% interest in a Strategic Company, irrespective of transaction value (in this case only if the investor is from outside of the EU, Switzerland and EEA);

   ii. An interest of more than 25% in a Strategic Company, if acquired by more than one Foreign Investors (in this case only if the investors are from outside of the EU, Switzerland and EEA); or

   iii. Ownership or establishment of a right to use or operate infrastructure or an asset necessary for pursuing activities in strategic sectors (including establishment as security over any "strategic infrastructure or asset").

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

There are no absolute interdictions stated under the FDI regulations of Hungary.

If the conditions for FDI screening are met, the transaction of the foreign investor cannot be exempted from the procedure.

Are there any exemptions or simplified procedures available for certain types of investors (e.g. small investments, intra-EU investments)?

The list of exemptions is narrow.

Transactions set out under Answer 6 part (b) (a) which do not exceed the value threshold are exempt from FDI screening.

Transactions are also exempt from the FDI ruleset (and, therefore, no screening is necessary) if they are implemented directly with respect to a foreign entity and if they result in an indirect change of ownership over a Hungarian Strategic Company which is a related subordinated affiliate of the foreign entity within the meaning of the Hungarian Accounting Act. Therefore, intra-group transactions between foreign entities that are implemented directly at the level of a Strategic Company (i.e. if they result in a direct change of control) are notifiable to the competent Minister pursuant to the FDI ruleset.

What is the notification procedure for FDI?

An application for approval must be filed within 10 days from the: (i) date of the execution of the underlying agreement, the preliminary agreement or the agreement to sign such agreements, if they fall within the scope of the Special FDI regime; or (ii) the date of the registration of a new activity falling within the scope of the General FDI Regime.

The filing must include **official Hungarian translations** of any documents submitted. Therefore, preparation for the FDI filing should commence before executing the transaction documents. FDI screenings do not have any specific notification forms; however, in certain cases a **form to request information** under Article 6 of Regulation (EU) 2019/452 must be completed. No filing fee is applicable.

Under the **General FDI Regime**, the minister should issue a decision within 60 days after receiving the FDI acknowledgement request, which may be extended by a further 60 days.

Under the **Special FDI Regime**, the competent minister has 30 working days to issue a decision, which may be extended by a further 15 days.

How long does the FDI screening process typically take?

The duration depends on the complexity and structure of the deal.

Based on our experience, the approval is usually issued within the deadlines mentioned in the answer to Question 9. Nevertheless, the screening procedure may take up to 3-4 months in certain, more complex cases.

What are the penalties for non-compliance with FDI notification or screening requirements?

If a foreign investor does not notify the competent minister of an investment triggering the FDI regimes, the foreign investor is subject to a **fine** in the following amounts:

a) Up to HUF 10 million (approx. EUR 26,100) in case of non-compliance with the General FDI Regime;

b) Up to two times the value of the investment, but not less than 1% of the target's net turnover achieved in the most recent financial year, in case of non-compliance with the Special FDI Regime.

If an investment triggering the General FDI Regime has been completed without the necessary acknowledgement and the minister concludes during ex-post FDI screening that the investment breaches the national security interests of Hungary, **the foreign investor must sell its shareholding within 3 months**, with the Hungarian State having a pre-emption right in connection with any such sale.

In the absence of notification and acknowledgement under the Special FDI Regime, or if the acknowledgement is denied, the **agreement, statement or corporate resolution underlying the notifiable investment is null and void.** The nullity resulting from a failure to notify may be remedied if the minister issues a resolution approving the investment.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

Yes, prohibition decisions are subject to limited judicial review with regard to both the General FDI Regime and the Special FDI Regime.

Foreign investors have a limited right to appeal against decisions of the competent minister to the Metropolitan Court of Budapest (Fővárosi Törvényszék).

Interim measures or immediate actions are not permitted in these proceedings and there is no right of appeal against the judgment of the court.

Are there any publicized cases or examples where an FDI screening decision led to rejection or modification of a foreign investment?

There is no public register of FDI filings and decisions, and there are no published statistics. Only a very limited number of cases is publicly known when a screening decision led to rejection of a foreign investment.

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Foreign Direct Investment Screening Mechanisms in

Kosovo

Kosovo

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, the core piece of the legislation for the screening of foreign direct investments is Law no. 08/L-209 on Sustainable Investments, promulgated on 22 August 2024 (the **"Law on Sustainable Investments"**). This Law is in partial compliance with the FDI Screening Regulation and, at the same time, abolishes older FDI laws and the Law on Strategic Investment.

The bodies responsible for requesting and overseeing the screening procedure are the Agency of Investments and Exports (**"AIE"**) and the Investment Kosovo Council of the Republic of Kosovo (**"Council"**).

According to Article 19 of the Law on Sustainable Investments, the AIE is responsible for facilitating investments including the screening of investors and investment projects.

Meanwhile, under Article 21, the Council may request the screening of investments and issue decisions on such screening.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

No differentiation is made between non-EU investors and EU investors.

What are the conditions which trigger the FDI authorization procedure?

Under Article 40 of the Law on Sustainable Investments the targeted investments that are subject to screening are investments performed by a foreign person that are likely to affect public order or national security.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

Under Article 41 of the Law on Sustainable Investments, screening may be required particularly for investments related to:

- Critical infrastructure;
- Critical technology and dual-use goods under applicable legislation;
- Supply of critical goods, including energy, raw materials and food;
- Access to or control over sensitive information; and
- Media freedom and pluralism.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

Yes. This Law on Sustainable Investments is in partial compliance with the FDI Screening Regulation.

What type of investments are subject to the screening and authorization obligation?

Refer to the answer to Question 4.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

No. There are no specific thresholds for different sectors or types of investors.

In assessing whether an investment is likely to affect public order or national security, consideration is given to the following:

- Whether the foreign person is directly or indirectly controlled or owned by the public authority of a foreign state;
- Whether the foreign person has been involved in an activity that affects public order or national security; or
- Whether there is a serious risk that the foreign person will be involved in illegal or criminal activities.

Are there any exemptions or simplified procedures available for certain types of investors (e.g. small investments, intra-EU investments)?

There is no simplified procedure available for certain types of investors.

What is the notification procedure for FDI?

Under Article 42 of the Law on Sustainable Investments, the AIE may initiate screening in the following situations:

- At the request of the foreign person who intends to make or has made an investment;
- At the request of the interested party;
- At the request of the Council, Minister or another competent body; or
- Ex officio

How long does the FDI screening process typically take?

Screening should be performed within 60 days from the date of the complete submission of the screening request or from the beginning of the ex officio procedure.

What are the penalties for non-compliance with FDI notification or screening requirements?

The Law on Sustainable Investments does not foresee special penalties for non-compliance with the screening requirements.

However, the Council may issue a decision which:

- Authorizes an investment that does not violate public order or national security;
- Sets appropriate conditions and deadlines for preventing or eliminating circumstances that threaten public order or national security;
- Prohibits or orders the removal of an investment that violates public order or national security.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

The investor can ask the AIE for assistance in resolving disputes with public institutions or public service providers through consultation. The investor can file a complaint with the Complaints Panel against a public institution which issues a resolution refusing consent to an investment. However, complaints are not admissible against decisions of the Council.

Under Article 43 of the Law on Sustainable Investments, a decision of the Council is considered a final administrative act within the meaning of the Law on General Administrative Procedure. A lawsuit against a decision is admissible under Article 46 of the Law on Sustainable Investments and under the Law on Administrative Conflicts. In this sense, in addition to the legal remedies provided for by the Constitutions and by the Law, the investor may, under Article 46 of the Law on Sustainable Investments, initiate:

- An investment dispute lawsuit;
- An administrative conflict.

Under Article 47 of the Law on Sustainable Investments, the Republic of Kosovo and the investor may agree to resolve the investment dispute through mediation or arbitration, determining in advance the terms and conditions of the procedure. Mediation and arbitration are held in the Republic of Kosovo or in a Member State of the European Union which is party to the Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).

Unless the Republic of Kosovo and the investor have agreed otherwise, the court or arbitral tribunal resolves the investment dispute in accordance with the law of the Republic of Kosovo.

Are there specific guidelines or publications available for foreign investors regarding the FDI screening process in the jurisdiction?

N/A. The Law on Sustainable Investments has only recently been promulgated and no new guidelines have yet been published.

Additional comments.

On 22 November 2024, the Assembly of the Republic of Kosovo promulgated the Law on the Register of Beneficial Owners. The purpose of this law is to establish, make operational and administer the Register of Beneficial Owners; set the obligations of natural persons and obliged entities recording beneficial ownership information in the Register; promote transparency of beneficial ownership; and define punitive measures in case of non-compliance with the provisions of the law.

The official register has not yet been published. However, this is expected in the coming months and may be seen as additional obligation placed on investors and business organizations registered in Kosovo.

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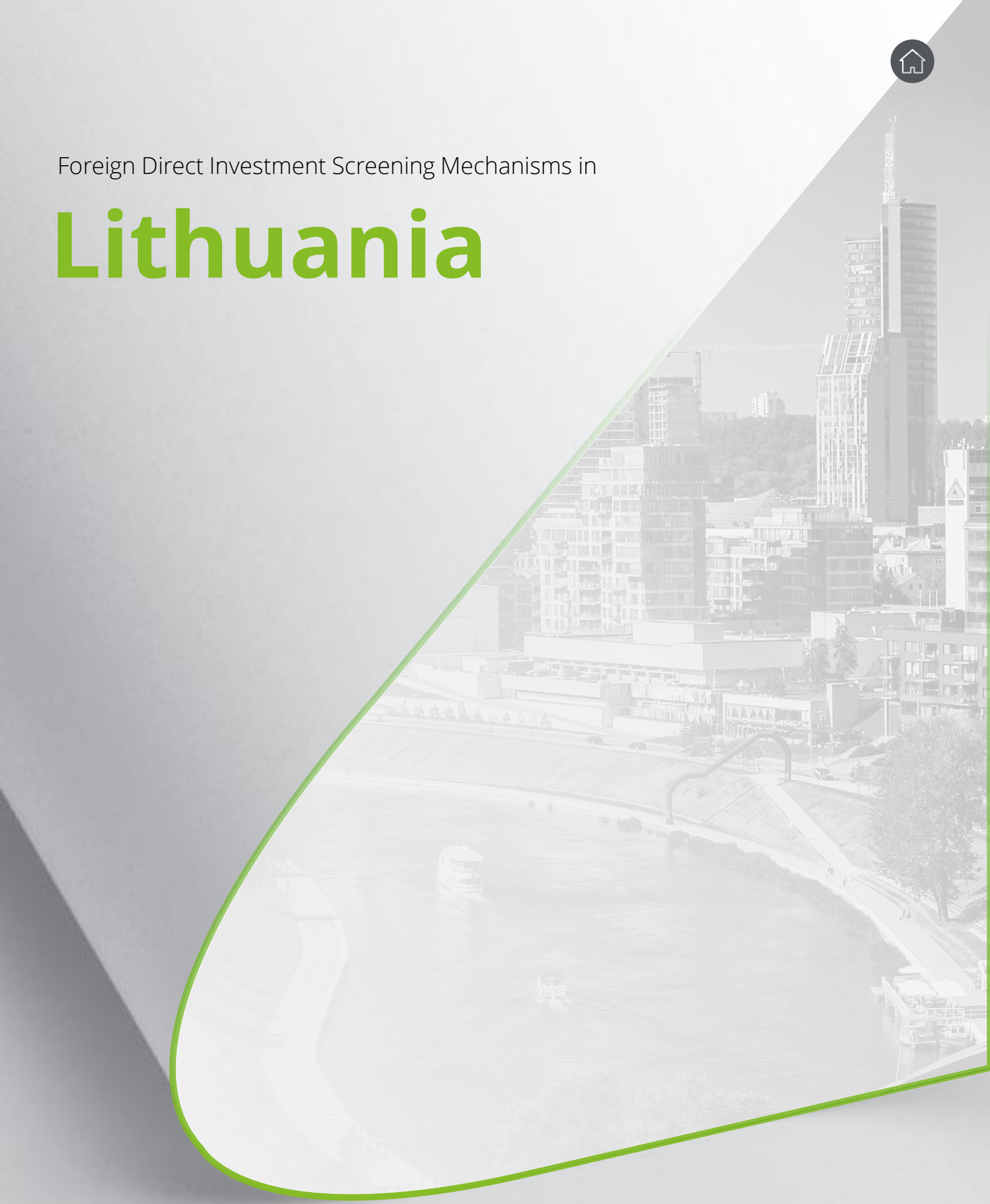
Foreign Direct Investment Screening Mechanisms in

Lithuania



Lithuania

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, the relevant screening body is the Commission for Coordination of Protection of Objects of National Security Importance (the **"NSI Commission"**). The NSI Commission must be notified before making an investment that triggers the FDI procedure. The consent of the NSI Commission must be received before making an investment.

The procedure is regulated by the Law on the Protection of Objects of National Security Importance, in force from 1 August 2020.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

FDI screening applies to any investor of the Republic of Lithuania, foreign investor or investor of a third country (natural or legal person) who:

a) Has acquired or intends to acquire an interest in shares or convertible bonds of an entity (public limited liability company or private limited liability company) of national security importance;

b) Has acquired or intends to acquire the right to exercise the non-property rights attached to shares of an entity of national security importance through a transfer-of-voting-rights agreement;

c) Has acquired or intends to acquire rights over equipment and assets of national security importance or assets specified in the security plan of entities of national security importance, the transfer of which requires the prior approval of the Lithuanian government;

d) Has acquired or intends to acquire shares in a legal person operating or that will be established in a sector of national security importance which carry the right to vote at a meeting of shareholders, or has acquired or intends to acquire securities which may be exchanged (converted) into shares carrying the right to vote at a meeting of the shareholders;

e) Intends, by acquiring property or otherwise, to carry out activities in the protection zones for enterprises, facilities and assets important for ensuring national security (the "Protection Zone"), or holds or intends to acquire shares in a legal person operating or that will be established in the Protection Zone which carry the right to vote at a meeting of shareholders or securities which may be exchanged (converted) into shares carrying the right to vote at a meeting of shareholders;

f) Carries out or intends to carry out activities in a sector of the economy which is of national security importance.

The NSI Commission can also initiate screening of any other investor in the cases established in the EU FDI Screening Regulation.

What are the conditions which trigger the FDI authorization procedure?

Investor screening must be carried out in the case of:

a) The transfer, to the investor, of equipment or assets of national security importance in accordance with the procedure established by law, or the pledge or mortgage of equipment or assets of national security importance to secure the claims of an investor;

b) The acquisition of shares in entities of national security importance, or the conclusion of contracts for the transfer of the right to vote by the investor and the acquisition of a right to exercise the non-property shareholder rights attached to shares in entities of national security importance;

c) The acquisition of an interest in convertible bonds of entities of national security importance;

d) The transfer, to the investor, of assets referred to in the security plan of an entity of national security importance;

e) To secure the claims of the investor by the pledging or mortgaging of the assets specified in the security plan of entities of national security importance.

f) The establishment of an entity in a sector of the economy or in the territory of the Protection Zone which is of national security importance.

The investor must notify and obtain the consent of the NSI Commission to an intended transaction or action if such investor, acting alone or jointly with other persons acting in a contractual capacity:

a) Intends to acquire shares which, together with its existing shareholding or together with the shareholding of other persons acting in a contractual capacity, represent a total of 1/4 of the votes or more at a general meeting of shareholders of a legal person operating or to be established in a sector of the economy or in the territory of the Protection Zone which is of national security importance; or

b) Intends to acquire, through a transfer-of-voting-rights agreement, the right to exercise non-property shareholders' rights which, together with its shareholding or together with the shareholding of other persons acting in a contractual capacity, represent a total of 1/4 of the shares in a legal person.

Additionally, a list is provided of specific companies established in Lithuania. These are split into three categories according to each company's importance to national security. Lithuanian laws establish different rules and thresholds for these entities, and in some cases consent from the Lithuanian government or parliament is required.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

The following economic sectors are strategically important for national security and are subject to FDI screening:

a) Energy;

b) Transport;

c) Information technology and telecommunications, and other high technology;

d) Finance and credit;

e) Military equipment.

Specific economic activities that are considered to be of strategic importance for national security of the economic sectors mentioned above are listed in the Resolution of the Government of the Republic of Lithuania No. 556, in force from 6 June 2018.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

Yes.

What type of investments are subject to the screening and authorization obligation?

Refer to the answer to Question 3.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

Refer to the answer to Question 3

Are there any exemptions or simplified procedures available for certain types of investors (e.g. small investments, intra-EU investments)?

Yes, investments by the following types of investors are considered to be in accordance with the interests of national security and, therefore, are not subject to screening:

a) States that are members of the European Union, NATO, OECD or EFTA, as well as public and private limited liability companies in which central, regional or local authorities of such a state holds more than one-half of the votes, securities or shares representing capital;

b) International financial organisations of which the Republic of Lithuania is a member; and

c) Other international financial institutions or organisations of which the investment policy and activities do not pose a threat to national security.

Similarly, investments by investors from the Republic of Lithuania or by foreign investors carrying out long-term activities in a member state of the European Union, NATO, OECD or EFTA and which have experience in the relevant field, are considered to be in accordance with the interests of national security and, therefore, are not subject to screening, except where:

a) The investor from the Republic of Lithuania or the foreign investor, the state in which it is established or which controls it, or the third country with which such investor is associated, acts in a manner that gives rise to risks, dangers or threats to the national security interests; or

b) Screening is carried out on the initiative of certain entities in accordance with legislation; or

c) The circumstances referred to in the answer to Question 9 become known; or

d) These entities have evidence that the activities planned or carried out by such investor or the decisions taken by the organs of the legal entity established may pose a threat to the interests of national security, or that the investor poses a risk to or is inconsistent with the national security interests.

What is the notification procedure for FDI?

The NSI Commission is the screening body that must be notified before making a relevant investment. Upon receiving such a notification, the NSI Commission initiates a procedure to assess whether the interest of the prospective investor complies with the national security interest. A relevant investment cannot be made until the national security screening is complete.

The law also sets out that, in certain cases, the FDI procedure can be initiated by institutions. In this case, the NSI Commission informs the investor no later than the next day and gives 10 business days to provide the necessary documents.

Any transactions or agreements of the investor which are in conflict with national security interests are unlawful and invalid from the moment of their conclusion.

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

- Is a dominant importer of fossil energy resources of any kind into the Republic of Lithuania, is a person controlled by such an importer or is related to such an importer by cooperation or partnership relations;
- Maintains or, in the past, has 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, has maintained links with organised groups of foreign states related to international terrorist organisations, or maintains or has maintained relations with persons suspected of membership thereof;
- Has been found guilty, by an effective court judgement, of a grave, serious or less serious crime under the Criminal Code of the Republic of Lithuania or of a crime under the criminal laws of foreign states which corresponds to the elements of a grave, serious or less serious crime, or is subject to criminal prosecution for committing such a crime, without such conviction having expired or been expunged;

- Has been found guilty, by an effective court judgement, of a crime(s) against the independence, territorial integrity and constitutional order of the State of Lithuania 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 the actual possibility of implementing the actions provided in the recommendations;
- After having been notified by the NSI Commission of the initiation of screening for compliance with national security interest, fails to submit the requisite documents and information to the NSI Commission within the time limit, as a result of which the NSI Commission or the Government does not issue a decision that the investor is compliant with national security interests;
- Is an investor from a specific third country by virtue of which it cannot be an investor in accordance with other laws;
- Poses a threat to the security or public order of an EU member state or to EU projects or programmes; or
- There is other justified data concerning the applicant's non-compliance with national security interests.

How long does the FDI screening process typically take?

The NSI Commission should inform the acquirer within 10 business days whether the transaction can be completed or whether the NSI Commission will start a detailed review. If a detailed review is initiated, a decision should be adopted within 20 business days after the start of the review, stating that the investor either:

a) Complies with national security interests;

b) Poses a risk to national security interests, in which case the NSI Commission provides recommendations that could prevent the investment from posing a threat to national security interests; or

c) Does not comply with national security interests.

Where a large volume of conclusions are submitted by institutions or where the deadline for institutions to submit their conclusions has been extended, the deadline for the NSI Commission to issue its conclusion may be extended once, for a period not exceeding 3 business days, by reasoned decision of the Chairperson of the NSI Commission.

Where it is concluded that an investor does not comply with national security interests, the conclusion should be submitted to the Government not later than within 2 working days following its adoption.

Based on the conclusion and recommendations of the NSI Commission, the Government then issues a final decision on the investor's compliance with national security interests within 15 business days of receiving the NCI Commission's conclusion and recommendations.

Where the Government issues a decision confirming that an investor does not comply with national security interests, this means that the specific transactions or actions of the investor are in conflict with national security interests and that the investor cannot conclude the transactions and/or perform the actions until the reasons giving rise to the threat to national security interests as indicated in the Government's decision are eliminated and the Government adopts a new decision confirming that the investor complies with national security interests, after having received a new conclusion and recommendations from the NCI Commission.

What are the penalties for non-compliance with FDI notification or screening requirements?

N/A.

However, transactions by an investor that contravene national security interests are illegal and void from the moment they are concluded. Also, if the mandatory FDI notification procedure is not followed, the triggered transaction might be considered as being null and void.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

Yes, FDI screening decisions may be appealed to the administrative court.

Are there any publicized cases or examples where an FDI screening decision led to rejection or modification of a foreign investment?

No, there are no such cases in respect of foreign investments; there are, however, cases where local investments have been rejected following FDI screening decisions[1] .

Are there specific guidelines or publications available for foreign investors regarding the FDI screening process in the jurisdiction?

Yes, most notably:

- Law on the Protection of Objects of Importance to Ensuring National Security
- Legal Act on the Procedure of the Coordination Commission for the Protection of Objects of National Security Importance
- Legal Act on Establishment of the List of Economic Activities that are Considered to be Part of Economic Sectors of Strategic Importance for National Security

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Foreign Direct Investment Screening Mechanisms in

Poland

Poland

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, Poland's national screening mechanism for foreign direct investments ("**FDI**") was established on 24 July 2015, through the Act on the Control of Certain Investments (Journal of Laws 2024, item 1459) (the "**FDI Control Act**"). The FDI Control Act also implements the EU FDI Screening Regulation, which establishes a framework for the screening of foreign direct investments across the EU. The FDI Control Act provides the legal basis for Poland's FDI screening process and incorporates measures to align with the EU FDI Screening Regulation.

Additionally, under the provisions of the FDI Control Act, the Minister of Development, Labor and Technology issued the Regulation of 8 October 2024 (Journal of Laws, item 1762), establishing a contact point for the implementation and application of the EU framework for monitoring foreign direct investments.

The authority responsible for managing and overseeing FDI screening in Poland is the President of the Competition and Consumer Protection Office (the "**CCPO**").

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to screening obligation?

Under Poland's FDI screening mechanism and Regulation (EU) 2019/452, the screening obligations primarily apply to non-EU investors, including those from outside the EEA/OECD or entities with significant non-EU influence.

The mechanism specifically targets foreign investors from outside the EU, especially in cases involving sensitive sectors such as critical infrastructure, advanced technologies and defense, which require notification and are subject to review.

What are the conditions which trigger the FDI authorization procedure?

The authorization procedure is triggered under the FDI Control Act when an entity intends to acquire or has already acquired a significant participation or control in a protected enterprise. The specific situations that require notification include:

- Intent to acquire or achieve a significant participation in an enterprise. This refers to acquiring at least 20% of the total voting rights in the entity's governing body, a capital share in a partnership representing at least 20% of the total contributions, or a share in the profits of at least 20%;
- Intent to acquire control. This occurs when an entity gains the ability to exercise decisive influence over the activities of the protected entity. This includes cases such as holding a majority of voting rights, appointing or dismissing the majority of management or supervisory board members, and entering agreements that allow for management or profit-sharing arrangements;
- Acquisition or achievement of a significant participation or control without prior intent. This can occur due to subsequent transactions or events, such as share redemptions, mergers or amendments to the company's articles of association, which result in surpassing the thresholds for significant participation or control.
- Indirect acquisitions. The procedure also applies to indirect acquisitions where the ultimate controlling entity behind the transaction is based outside the EU, EEA or OECD. In such cases, even if the immediate transaction involves entities based within these regions, the notification requirement is triggered.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

The sectors and strategic industries subject to FDI screening are outlined in the FDI Control Act. These are as follows:

1) Electricity generation;
2) Production of motor gasoline or diesel fuel;
3) Pipeline transport of crude oil, motor gasoline or diesel fuel;
4) Storage and warehousing of motor gasoline, diesel fuel or natural gas;
5) Underground storage of crude oil or natural gas;
6) Production of chemicals, fertilizers and chemical products;
7) Manufacturing and trade of explosives, weapons, ammunition and products and technology for military or police use;
8) Regasification or liquefaction of natural gas;
9) Transshipment of crude oil and its products at seaports;
10) Distribution of natural gas or electricity, 10a) Transshipment at ports of fundamental importance to the national economy as defined in Article 2(3) of the Act of December 20, 1996, on Seaports and Harbors (Journal of Laws 2023, item 1796);
11) Telecommunications activities;
12) Transmission of gaseous fuels;
13) Production of rhenium;
14) Mining and processing of metal ores used in the production of explosives, weapons, ammunition and products and technology for military or police use.

Additionally, the Council of Ministers may issue a regulation specifying a list of entities that require protection and the authority responsible for overseeing each of them. The regulation will consider the entity's importance in the market, scale of operations, potential serious risks to public interests, and the need for investment control to ensure public order or security when no less restrictive measures are available.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

Yes. The FDI screening mechanism complies with FDI Screening Regulation, enabling the assessment of investments that may affect national security or public order, especially in strategic sectors like defense, energy and technology. Poland actively participates in the EU cooperation mechanism, sharing FDI case information with other Member States and the European Commission.

What type of investments are subject to the screening and authorization obligation?

In Poland, FDI refers to investments made by a foreign investor with the purpose of establishing or maintaining a long-term and direct connection with a Polish entity. These investments enable the investor to engage in the company's economic activities. FDI includes investments that grant the foreign investor significant involvement in the management or control of the entity.

This can involve acquiring a significant stake in the company, such as 20% or more of the voting rights, or gaining control over the company's decision-making processes. These types of investments are subject to verification and authorization to ensure they do not pose a risk to national security, public order or public health.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

There are no regulations setting thresholds for specific sectors or imposing an absolute prohibition on transactions.

Are there any exemptions or simplified procedures available for certain types of investors (e.g. small investments, intra-EU investments)?

Under Polish law, there are no specific exemptions or simplified procedures for certain categories of investors.

What is the notification procedure for FDI?

The notification procedure for FDI in Poland is governed by the FDI Control Act and includes the following key steps:

1. Identify that notification is required

Notification is required if the foreign investor (non-EU/EEA/Swiss or with significant non-EU influence) plans a transaction in sensitive sectors, such as defence, energy, telecommunications, media or critical infrastructure. Transactions that involve acquiring at least 20% of voting rights, shares or control, or that enable dominance in a Polish company, must be notified.

2. File the notification

The investor must submit the notification to the President of the CCPO. The notification must include detailed information about:

- The investor (e.g. ownership structure, ultimate beneficial owners);
- The target company (sector, operations, assets and significance for critical infrastructure or national security);
- Nature and scope of the transaction;
- Any anticipated changes to management or operations post-acquisition.

3. Preliminary review by President of the CCPO

The President of the CCPO conducts an initial review to determine whether the transaction falls under the scope of the FDI Control Act. If the transaction raises no concerns, the process is completed with simple clearance granted.

4. In-depth screening (if necessary)

If the investment raises potential risks to national security, public order or strategic sectors, the President of the CCPO launches a detailed investigation. The agency evaluates the potential impact on critical infrastructure, defence capabilities or public safety.

5. Issue a decision

The President of the CCPO can:

- Approve the investment unconditionally;
- Approve the investment with conditions attached (e.g. ensuring the continued operation of critical infrastructure);
- Prohibit the transaction if risks cannot be mitigated.

How long does the FDI screening process typically take?

The standard review process takes up to 30 days, but in complex cases, it may extend to 120 days.

What are the penalties for non-compliance with FDI notification or screening requirements?

Non-compliance with FDI notification or screening requirements can result in significant penalties. Under the FDI Control Act, failure to notify or obtain authorization for a required foreign direct investment can lead to:

- **Financial penalties** – a fine of up to PLN 100 million can be imposed for failing to notify a transaction that requires screening.
- **Criminal liability** – individuals who intentionally violate the law (e.g. by failing to notify or submitting false information) can face criminal liability, including imprisonment of up to 5 years.
- **Invalidation of transactions** – transactions made without proper authorization may be declared invalid, reversing any legal effects such as transfer of ownership or control.
- **Restriction of the right to exercise voting rights or shareholding rights in a company** – in certain cases, the rights to vote or hold shares in the acquired company may be limited.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

Yes, it is possible to appeal an FDI screening decision. The appeal process is governed by the FDI Control Act. If an investor disagrees with a decision made by the President of the CCPO, they can appeal to the Administrative Court. The appeal can be filed within 30 days after the decision is issued.

This allows investors to seek judicial review of the decision to ensure that the FDI screening process complies with both national and EU law, especially concerning issues like national security, public order and the protection of strategic industries.

Are there any publicized cases or examples where an FDI screening decision led to rejection or modification of a foreign investment?

In Poland, there have been no well-known cases of foreign investments being outright rejected through the FDI screening process. Most decisions by the President of the CCPO have approved investments, confirming that they did not pose any risks.

Are there specific guidelines or publications available for foreign investors regarding the FDI screening process in the jurisdiction?

Currently, there are no official guidelines available for foreign investors regarding the FDI screening process in Poland. However, the CCPO website is available in English and provides publications on this topic. Here is a link to one of the publications on the government website: New clarifications on investment control

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Foreign Direct Investment Screening Mechanisms in

Romania

Romania

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, the Romanian national screening mechanism for foreign direct investments was established on 18 April 2022 through Government Emergency Ordinance No. 46/2022 on measures for the implementation of Regulation (EU) 2019/452, and implementing and supplementing Competition Law No. 21/1996 ("**GEO 46/2022**").

Thus, GEO 46/2022 incorporates measures to implement the FDI Screening Regulation.

The authority responsible for overseeing FDI screening is the Commission for the Examination of Foreign Direct Investments ("**CEISD**"), a collegial body without legal personality operating under the authority of the Government of Romania.

Prior to the enactment of GEO 46/2022, Romania had already established a mechanism for screening investments to evaluate potential risks to national security. This procedure is detailed in the Regulation on Economic Concentrations, adopted through the Competition Council's Order No. 431/2017 and applied to activities falling within the sectors outlined in the Decision of the Supreme Council of National Defense ("CSAT"), which are also referenced in GEO 46/2022.

The FDI Screening mechanism is applicable to non-EU investors or also for EU investors? Local investors are subject to the screening obligation?

Yes, the FDI screening mechanism applies to non-EU investors and EU investors, including Romanian investors (who are included in the definition of EU investors).

Initially, upon the adoption of GEO 46/2022, the obligation to notify applied exclusively to non-EU investors. However, from December 2023, the notification requirement under GEO 46/2022 was extended to include EU investors and Romanian investors.

Although the notification obligation for EU investors took effect in December 2023, the penalty for failure to notify was introduced later, in July 2024.

What are the conditions which trigger the FDI authorization procedure?

A foreign direct investment or new investment made by a non-EU investor or EU investor must be notified if both of the following conditions are met:

a) It falls within the domains of activity listed in CSAT Decision no. 73/2022,

b) It exceeds the financial threshold of EUR 2 million.

However, foreign direct investments that do not exceed the threshold of EUR 2,000,000 may also be subject to review and approval by CEISD if, by their nature or their potential effects, they could impact national security or public order or pose risks to these areas, with reference to the criteria set forth in Article 4 of the FDI Screening Regulation.

These conditions ensure that only investments that could potentially impact national security or public order are subject to the notification and screening process.

What are the sectors or strategic industries subject to FDI screening in your jurisdiction?

The strategic sectors subject to FDI screening are broadly outlined in CSAT Decision No. 73/2012. These are as follows:

- Citizen and community security;
- Border security;
- Energy security;
- Transportation security;
- Security of vital resource supply systems;
- Critical infrastructure security;
- Security of information and communication systems;
- Security of financial, fiscal, banking, and insurance operations;
- Security of the production and circulation of arms, ammunition, explosives, and toxic substances;
- Industrial security;
- Disaster protection;
- Protection of agriculture and the environment;
- Protection of privatization processes for state-owned enterprises or their management.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

In general, Romania's foreign direct investment screening mechanism is aligned with the FDI Screening Regulation and mirrors its structure. Its purpose is to protect national security and public order by reviewing foreign investments in key sectors.

However, unlike the FDI Screening Regulation, which specifically targets foreign investments made by non-EU investors, GEO 46/2022 applies to EU investors as well. Notably, the FDI Screening Regulation allows member states to implement more restrictive procedures in line with national strategies, giving countries flexibility in screening investments.

Additional differences between Romania's FDI Regime and the EU FDI Regime are as follows:

- **Minority shareholding** – The Romanian screening regime also applies to investments in minority shareholdings, where the purchase of the minority holding confers control or management rights in the undertaking where the investment was made. Minority shareholdings which do not confer such controlling/management rights are not expressly excluded from the application of the law, which in some cases leads to uncertainties with respect to the authorization obligation;
- **Value threshold** – Romania applies a rather low value threshold for investments (i.e. EUR 2 million), beyond which a notification obligation is triggered;
- **Standstill obligation** – Romania imposes a standstill obligation, meaning that certain actions are restricted until authorization is issued;
- **Notification fee** – in Romania investors are charged a notification fee of EUR 10,000, reimbursable if the CEISD deems that authorization was not actually required for the specific investment;
- **Fines and remedies** – Romania has specific provisions for fines and remedies. The unauthorized implementation of investments can be sanctioned by fines of up to 10% of the worldwide turnover of the investor.

What type of investments are subject to the screening and authorization obligation?

Foreign direct investments are defined as any type of investments made by a foreign investor with the purpose of establishing or maintaining lasting and direct links between the foreign investor and the enterprise to which the funds are provided for carrying out an economic activity within Romania. This includes investments that allow for effective participation in the management or control of a business engaged in economic activity. In essence, any transaction aiming to establish or maintain direct and enduring relationships with the company receiving the investment in order to facilitate its economic activities in Romania qualifies as an FDI. Common examples include acquisitions of assets and share acquisitions.

Furthermore, **greenfield investments** are also subject to FDI screening. These are investments in tangible and intangible assets related to the establishment of a new enterprise, the expansion of an existing enterprise's capacity, the diversification of production into new products previously unmade or a fundamental change in the production process of an existing enterprise.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

If a foreign direct investment has the potential to impact national security or public order and falls within the sectors outlined in Article 4 of the FDI Screening Regulation (e.g. critical infrastructure, whether physical or virtual, including energy, transportation, water, health, communications, critical technologies and dual-use, and the supply of critical production inputs, including energy or raw materials), it may still be subject to review even if the value is below the threshold of EUR 2 million.

Are there any exemptions or simplified procedures available for certain types of investors (e.g. small investments, intra-EU investments)?

Romanian legislation does not provide for any explicit exemptions or simplified procedures for certain types of investors, such as small investments or EU investments.

What is the notification procedure for FDI?

The notification procedure in Romania involves the following steps:

- **Notification submission.** The investor is required to submit a notification to CEISD through its secretariat, namely the FDI Department within the Competition Council. The notification must be submitted in Romanian, accompanied by an English-language version, and should mainly include details about the parties involved in the transaction, the nature, purpose and value of the investment and the sector or activity targeted by the investment.
- **Initial review.** The FDI Department reviews the notification to determine whether the investment falls within the scope of the law and if additional information is required, it may request clarifications or supplementary documentation from the investor.
- **Screening process.** CEISD conducts detailed screening of the investment, analyzing potential risks to national security or public order based on the criteria outlined in Romanian law and the EU FDI Screening Regulation. The screening process considers factors such as the investor's background, the investment's implications for critical infrastructure, technology or access to sensitive data, and other sector-specific risks.
- **Authorization.** The Romanian Competition Council is the authority which issues the authorization decision, based on the analysis performed by CEISD. If the investment is prohibited or approved with conditions attached, the Government will conditionally approve or reject the foreign direct investment or new investment.

How long does the FDI screening process typically take?

At present, the FDI screening process typically takes approximately 2 months from the date of submission of a complete notification file. However, this timeline may vary depending on several factors, including the complexity of the investment, the quality and completeness of the documentation provided, and whether additional information or clarifications are requested by the CEISD.

In cases where the investment raises significant concerns or requires a more detailed review, the process may extend beyond the typical timeframe, as the CEISD may need to involve other governmental bodies or escalate the matter to the Romanian government for a final decision.

What are the penalties for non-compliance with FDI notification or screening requirements?

The unauthorized Implementation of an investment or the inobservance of a decision issued by the authority is a contravention sanctionable by substantial fines of up to 10% of the total worldwide turnover of the investor.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

Authorization decisions issued by the Romanian Competition Council can be challenged before the Bucharest Court of Appeal (Administrative and Fiscal Division) within 30 days from the date the decision is communicated. Sanctioning decisions of the Romanian Competition Council can also be challenged before the same court within 15 days from communication.

However, as rejection decisions or conditional approvals are decided by the Romanian government, such decisions can only be challenged by following the regular procedure applicable for the challenging of a Government decision.

Are there any publicized cases or examples where an FDI screening decision led to rejection or modification of a foreign investment?

There have been no publicly disclosed cases of an investment being either rejected or authorized with amendments under the FDI screening process.

Are there specific guidelines or publications available for foreign investors regarding the FDI screening process in the jurisdiction?

Currently, there are no official guidelines available for foreign investors regarding the FDI screening process in Romania. However, efforts are underway to address this gap. The Competition Council is considering a proposal for formal guidelines that will provide clearer directions for investors on how to navigate the FDI screening process.

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Foreign Direct Investment Screening Mechanisms in

Serbia

Serbia[1]

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

No, in Serbia, foreign direct investments are governed by the Law on Investments ("Official Gazette of RS", Nos. 89/15 and 95/18) (the "**Law on Investments**"). The Law on Investments sets forth the fundamental conditions and principles for FDI, outlining the rights and obligations of investors, as well as providing measures of support and protection. This aside, Serbia has not yet established any national FDI screening mechanism.

Although there is no screening mechanism in this area, the National Bank of Serbia keeps records of FDI. The National Bank of Serbia collects, records and analyses data on all FDI coming into Serbia, as well as outbound FDI from Serbia to other countries. These data include all relevant information, such as the amount of the FDI, the sectors into which it is invested, the country of origin of the FDI, and so on. The National Bank of Serbia's reports on FDI are publicly available and regularly updated. They can be found on the official website of the National Bank of Serbia. Here, detailed analyses and statistical data that help to understand the trends and structure of FDI in Serbia are also available.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to the screening obligation?

Serbia has no FDI screening mechanism in place.

What are the conditions which trigger the FDI authorization procedure?

Serbia has a liberal regime and has not put in place an FDI authorization procedure. Consequently, foreign direct investments are not subject to prior authorization by the state.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

Refer to the answer to Question 1.

Is the FDI screening mechanism aligned with the European Union's Regulation 452/2019?

No. Serbia has not put in place an FDI screening mechanism within the meaning of Article 2(4) of Regulation (EU) 452/2019.

What type of investments are subject to the screening and authorization obligation?

Serbia has no FDI screening mechanism in place. Consequently, no investments are subject to the screening and authorization obligation.

[1] Serbia is a non-EU member state with no national FDI screening mechanism in place.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdictions in certain sectors?

Yes, there are some restrictions for foreign ownership in certain sectors in Serbia, such as:

- Agricultural land: the owner of agricultural land cannot be a foreign natural or legal person[2];
- Production of weapons and military equipment: a foreign natural or legal person may be granted permission to invest in the field of weapons and military equipment production only if they obtain investment capital approval from the Ministry of Defense[3].

Additional comments.

There has been no discussion so far regarding potential amendments to the Law on Investments and the implementation of a national FDI screening mechanism in Serbia. However, it can be expected that this or a similar mechanism will be implemented in the coming years in order to bring Serbian regulations into line with EU regulations.

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[2]Article 1 paragraph 4 of the Law on Agricultural Land ("Official Gazette of RS", Nos. 62/06, 65/08 – other law, 41/09, 112/15 and 95/18 – other law);
[3]Article 12 paragraph 1 of the Law on the Production and Trade of Weapons and Military Equipment ("Official Gazette of RS", No. 36/18);

Foreign Direct Investment Screening Mechanisms in

Slovenia

Slovenia

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

Yes, the regulatory body responsible for screening foreign direct investments is the Directorate for Industry, Entrepreneurship and Internationalization, which operates under the Ministry of the Economy, Tourism and Sport (the **"Ministry"**). Specifically, the Notification Commission, established within the Ministry, examines FDI notifications and provides opinions on whether to initiate the screening procedure as part of the preliminary assessment process.

The legal act implementing the FDI Screening Regulation is the Investment Promotion Act (**"ZSInv"**)[1]. This Act entered into force on 1 July 2023, replacing the former regime provided for under Chapter 11 of the Act on Intervention Measures to Mitigate and Eliminate the Consequences of the COVID-19 Epidemic (**"ZIUOOPE"**), which provided only temporary regulation of foreign direct investments.

Consequently, all FDI notification applications submitted up to and including 30 June 2023 are processed in accordance with the provisions of the ZIUOOPE, while applications submitted from 1 July 2023 onwards will have to be processed in accordance with ZSInv.

Is the FDI Screening mechanism applicable to non-EU investors or also to EU investors? Are local investors subject to the screening obligation?

FDI screening is carried out on foreign investments undertaken by foreign investors.

Article 2(13) of ZSInv defines a **foreign investor** as:

a) A national of a third country (non-EU country) or a legal person established in a third country who intends to make or has already made a direct foreign investment in the Republic of Slovenia; or

b) A national of a third country or a legal person established in a third country who, directly or indirectly, holds at least 10% of the capital or voting rights in a legal person established in an EU Member State and intends to make or has already made a direct foreign investment in the Republic of Slovenia.

Consequently, the FDI screening mechanism applies to non-EU investors.

Generally, EU investors are not subject to the screening obligation. However, EU entities cannot be used as intermediaries to circumvent the screening requirements, as direct and indirect shareholdings by non-EU investors are also subject to scrutiny.

What are the conditions which trigger the FDI authorization procedure?

The FDI authorization procedure is triggered if all of the following three conditions are cumulatively met:

a) The transaction is by a foreign investor (see answer to Question 2 for the definition of foreign investor);

b) The transaction is a foreign direct investment in which the investor acquires at least a 10% participation in the capital or voting rights of a Slovenian company; and

c) The activity of the target company relates to one of the risk factors (as per Article 31.č of ZSInv) – see answer to Question 4 for these risk factors.

[1] sl. Zakon o spodbujanju investicij, ZSInv, Official Gazette of the Republic of Slovenia no. 31/24 , as amended.

The review procedure is decided exclusively on whether the FDI may affect the security or public order of the Republic of Slovenia. An FDI is approved if the impact on public order and security in the Republic of Slovenia is negligible or non-existent.

What are the sectors or strategic industries subject to FDI screening in the jurisdiction?

The sectors or strategic industries subject to FDI screening under Article 31.č of ZSInv are in one of the following critical areas:

- **Critical infrastructure,** whether physical or virtual, including infrastructure in the fields of energy, transport, water, healthcare, communications, media, data processing or storage, the aviation and space sectors, defense, electoral or financial infrastructure and sensitive facilities, as well as land and real estate essential for the operation of such infrastructure;
- **Critical technologies and dual-use goods,** including artificial intelligence, robotics, semiconductors, cybersecurity, aviation and space technologies, defense technologies, energy storage technologies, quantum and nuclear technologies, as well as nanotechnology and biotechnology;
- **Supply of critical resources,** including energy, raw materials and food security;
- **Access to sensitive information,** including personal data, or the ability to control such information;
- **Freedom and pluralism of the media;** or
- **Projects or programs of interest to the European Union,** as defined in Annex I of the FDI Screening Regulation.

In accordance with paragraph 6 of Article 31.č of ZSInv, when assessing whether a foreign direct investment may affect security or public order the Ministry considers, in particular, whether:

- The foreign investor is directly or indirectly controlled by the government, including state authorities or armed forces of a third country, through their ownership structures or significant funding;
- The foreign investor has previously been involved in activities that have impacted security or public order in an EU Member State;
- There is a serious risk that the foreign investor engages in illegal or criminal activities;
- The foreign investor, through the transaction subject to notification, has reached the acquisition threshold in the target company (one-third of the voting rights in that company) or, after the successful completion of a takeover bid, has acquired a 10% share of the voting rights in the target company or at least a 75% share of all voting shares in the target company with voting rights;
- The foreign investor, through a target company or acquired company or newly established company operating in the Republic of Slovenia, holds at least a 20% market share of critical activities; or
- The foreign investor, through the transaction subject to notification, has reached a 25% or 50% share of the capital or voting rights in the target or acquired company.

Is the FDI screening mechanism aligned with the FDI Screening Regulation?

Yes.

Slovenia's foreign direct investment screening mechanism is generally aligned with the FDI Screening Regulation and mirrors its structure. Its purpose is to protect national security and public order by reviewing foreign investments in key sectors.

What type of investments are subject to the screening and authorization obligation?

The screening and authorization obligation applies to **direct foreign investments,** defined in Article 2 of ZSInv as any investment made by a foreign investor with the aim of establishing or maintaining lasting and direct or indirect connections between the foreign investor and a company established in the Republic of Slovenia, by means of the first and any subsequent acquisition, directly or indirectly, of at least 10% of the share capital or voting rights in the company.

What is the notification procedure for FDI?

The notification procedure is comprised of two phases:

- **Phase 1:** The Notification Commission, operating under the Ministry, conducts a preliminary review. If the transaction meets the relevant criteria, the Commission issues an opinion assessing whether the transaction significantly impacts public order and security in the Republic of Slovenia. Based on this assessment, the Commission issues a **proposal** either to approve the transaction or to initiate a preliminary procedure, i.e. an in-depth examination process. The Ministry then issues either a decision approving the foreign direct investment or an order to commence a Phase 2 review procedure.
- **Phase 2:** A specialized group conducts the review procedure Sand submits an **opinion** to the Ministry for the approval or rejection of the foreign direct investment no later than two years after the start of the review procedure. Based on this opinion, the Ministry issues a decision either to approve the investment, to approve it with specific conditions attached for its implementation or to prohibit the foreign direct investment. This **decision** must be issued by the Ministry within two months of the opinion of the specialized group.

The notification is submitted **by email** (in a non-prescribed form) **directly to the competent directorate** – the Directorate for Industry, Entrepreneurship and Internationalization, an administrative body within the Ministry of Economic Development, Tourism and Sport. SThe email address is gp.mgts@gov.si.

To report a direct foreign investment, **the following information and data must be provided:**

- First name, surname and place of residence, or name and registered office, of the foreign investor and of the target company, acquired company or newly established company;
- Annual turnover of the foreign investor and of the target company or acquired company;
- Total number of employees of the foreign investor and of the target company, acquired company or newly established company;
- Trading code of the securities, if available, of the foreign investor and of the target company, acquired company or newly established company;
- Ownership structure of the foreign investor and of the target company, acquired company or newly established company, including information about the ultimate investor and participations in capital and voting rights;
- Value and source of funding for the direct foreign investment;
- Products, services and business activities of the foreign investor and of the target company, acquired company or newly established company (according to the SKD classification of economic activities);
- Countries where the foreign investor and the target company or acquired company conduct significant business activities;

- Date when the direct foreign investment is expected to be completed or was completed;
- Detailed description of the direct foreign investment;
- Statement required under paragraph 6 of Article 31čof ZSInv;
- Defining and providing evidence proving the accuracy of the data provided.

If the target company, acquired company or newly established company does not possess the data mentioned above, this must be clearly and adequately explained in the notification.

A foreign direct investment is approved if its impact on public order and security in the Republic of Slovenia is negligible or non-existent.

How long does the FDI screening process typically take?

The notification must be submitted within 15 days from:

- **The conclusion of a legal transaction** by which a foreign investor, directly or indirectly, acquires at least 10% of the share capital or voting rights in a company based in the Republic of Slovenia, or from the announcement of a takeover bid; or
- **The registration of a newly established company in the court register** in the Republic of Slovenia, where the aim of the direct foreign investment is to invest in tangible and intangible assets related to the establishment of a new business unit through which the foreign investor, directly or indirectly, acquires at least 10% of the share capital or voting rights in a newly established company based in the Republic of Slovenia.

The obligation to notify does not cease if the foreign investor or newly established company fails to submit the notification within the timeframe specified above (15 days). In practice, the notification may also be submitted **prior to the transaction.**

The specialized group conducts the review procedure (Phase 2 of the notification procedure, as outlined in the answer to Question 9) and issues an opinion within two years from the initiation of the review procedure. The Ministry then issues its decision within two months from the opinion of the specialized group.

What are the penalties for non-compliance with FDI notification or screening requirements?

FDI legislation provides for sanctions in the form of:

- **Conditions for implementing the foreign direct investment** (limiting the FDI); and
- **Penalties for non-compliance.**

The **conditions for implementing the FDI** that may be imposed to mitigate or prevent the identified impact of a transaction on the security and public order of the Republic of Slovenia are as follows:

- **Prohibition on the sale of intellectual property** rights (copyrights and related rights) owned by the target company, acquired company or newly established company to natural persons or legal entities from third countries;
- **Prohibition on the sale of specific tangible and intangible fixed assets** acquired through the foreign direct investment;
- **Prohibition on business cooperation with a legal entity or natural person** that affects public order or security in any EU member state, if this has been determined by either a member state or the European Commission;
- **Obligation to reduce the share** being acquired in the target company, acquired company or newly established company;
- **Commitment to maintaining certain parts of the target company,** acquired company or newly established company within the Republic of Slovenia;
- **Obligation to relocate certain sensitive activities** from the target company, acquired company or newly established company in the Republic of Slovenia to another legal entity with its registered office in Slovenia;
- **Prohibition on carrying out certain conduct in the market** of the Republic of Slovenia;

- **Obligation to continuously perform the original activity** of the target company, acquired company or newly established company within the Republic of Slovenia;
- **Obligation to ensure the provision of goods and services** from the original activity of the target company, acquired company or newly established company.

These conditions may be imposed for a specific period, which cannot exceed **10 years.**

The foreign investor, target company, acquired company or newly established company must report to the Ministry annually on the implementation of measures regarding compliance with the conditions outlined above until the allocated timeframe of the measures is completed.

As regards the penalties for non-compliance under Article 31.a ZSInv, a legal entity is liable to a fine of between EUR 100,000 and EUR 250,000 for an offence, or between EUR 200,000 and EUR 500,000 if the legal entity is considered a medium or large enterprise under the law governing business entities, if it:

a) **Fails to notify a foreign direct investment, within 15 days from the conclusion of a legal transaction or from the announcement of a takeover bid**, through which a foreign investor directly or indirectly acquires at least 10% of the share capital or voting rights in a company based in the Republic of Slovenia.

b) **Fails to notify a foreign direct investment, within 15 days from the registration of a newly established company in the court register in the Republic of Slovenia**, through which it directly or indirectly acquires at least 10% of the share capital or voting rights in the newly established company.

c) **Fails to submit all requisite information about the foreign direct investment** (see the answer to Question 9 for details).

d) **Does not provide additional clarifications or explanation** or fails to submit appropriate evidence to the Notification Commission or the specialized group within the prescribed timeframe.

e) **Fails to comply with the prohibition or conditions for implementing the foreign direct investment** (see paragraphs above).

f) **Fails to report to the Ministry regarding the adherence to the conditions for implementing the foreign direct investment** (see paragraphs above).

A **self-employed individual** or a person conducting business independently is liable to a fine of between EUR 50,000 and EUR 150,000 for the above listed offenses.

The **responsible person** of a legal entity, the responsible person of a self-employed individual, or the responsible person of a person conducting business independently is liable to a fine of between EUR 2,000 and EUR 10,000 for the above listed offenses.

An **individual** is liable to a fine of between EUR 1,000 and EUR 5,000 for the above listed offenses.

Is it possible to appeal a FDI screening/control related decision in the jurisdiction?

No regular appeal is allowed against the Ministry's decision regarding the notification of a foreign direct investment. However, an administrative dispute is permitted.

Key contact

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Foreign Direct Investment Screening Mechanisms in

Ukraine

Ukraine

Is there a national mechanism in place for the screening of foreign direct investments by application of Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (the "FDI Screening Regulation")?

No, Ukraine does not currently have mechanisms or procedures in place to review or monitor foreign investments.

At the same time, some general legislative acts contain certain procedures that regulate investments in Ukraine.

Are there specific thresholds for different sectors or types of investors? Or are there absolute interdiction in certain sectors?

Ukraine does not have a formal FDI screening mechanism in place.

The Law of Ukraine "On Investment Activity" (No. 1560-XII of 18.09.1991) prohibits investments in facilities whose creation and use does not meet the requirements of sanitary, hygienic, radiation, environmental, architectural and other standards established by the legislation of Ukraine, as well as investments that violate the legally protected rights and interests of citizens, legal entities and the state.

The Law of Ukraine "On the Regime of Foreign Investment" (No. 93/96-BP of 19.03.1996) stipulates that the laws of Ukraine may determine the territories where the activities of foreign investors and enterprises with foreign investments are restricted or prohibited according to national security requirements.

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