

*Good lawyers give good answers.
Excellent lawyers ask the right questions.*

Driven by national security concerns, many countries worldwide adopted rules for screening of foreign direct investments (FDI). The scope and procedural details of national screening regimes can vary greatly, and timely and coordinated assessment of FDI has become an integral part of international transactions.

IS THE FDI SCREENING REGIME IMPLEMENTED IN YOUR COUNTRY?

POLAND

Yes, for foreign investments in strategic infrastructure areas originating outside the EU, EEA, and OECD. Investments completed before or without approval are null and void and may result in criminal sanctions or administrative fines.

SOLIVAN.

www.solivan.pl

CZECH REPUBLIC

Yes, foreign investments in specific security-sensitive sectors must be approved by the Czech Ministry of Industry and Trade after undergoing screening. Completion of the investment without approval can result in mandatory divestment and a substantial fine for the investor.



www.jsk.cz

AUSTRIA

Yes, foreign investments in certain infrastructure and security-sensitive areas originating outside the EU, EEA and Switzerland completed before or without approval are null and void and may result in criminal sanctions or administrative fines.

graf patsch taucher

www.gpra.at

HUNGARY

Yes, there are two distinct regimes, the General and the New FDI screening regimes, both of which can be applied simultaneously. The new regime is also applicable to investments made by investors from another EU/EEA member state targeting certain sectors of strategic importance.



www.hunlaw.hu

SLOVAKIA

Yes, for direct and indirect investments originating outside of the EU.

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ROMANIA

Yes, the screening regime initially focused on non-EU investors. However, its scope was expanded in 2023 to include EU investors. FDI screening is conducted by an inter-agency commission, chaired by the Prime Minister's appointee.



www.ja.ro

BULGARIA

Yes, foreign investments in certain key areas related to national security or public order, which meet additional conditions regulated in the IPA, can be completed after receiving conditional or unconditional clearance from the Inter-Ministerial Council for Screening of FDI's.

Gugushev & Partners
LAW OFFICE

www.gugushev.com

PONTES PUBLIC LAW PRACTICE COORDINATOR

Bernd Taucher +43 1 5354820 bernd.taucher@gpra.at

COUNTRY PUBLIC LAW PRACTICE LEADERS

| | | | |
|-----------|---------------------|------------------|----------------------------------------------------------------------|
| AT | Bernd Taucher | +43 1 5354820 | bernd.taucher@gpra.at |
| BG | Kostadinka Deleva | +359 2 815 75 10 | kdeleva@gugushev.com |
| CZ | Tomas Dolezil | +420 226 227 639 | tomas.dolezil@JSK.cz |
| HU | Csaba Polgar | +36 1 799 0140 | csaba.polgar@hunlaw.hu |
| PL | Jakub Paszkiewicz | +48 535 247 355 | jpaszkiewicz@solivan.pl |
| RO | Catalina Sucaciu | +40 21 539 70 07 | catalina.sucaciu@ja.ro |
| SK | Katarina Mihalikova | +421 220 910 550 | mihalikova@mmlaw.sk |

Warning: We like clarity just as much as you do. This overview could not be made without extensive implication, generalisation and simplification.

This overview can be used for general reference, but please call or email us before drawing any conclusions based upon it.

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| | AUSTRIA | BULGARIA | CZECH REPUBLIC | HUNGARY | POLAND | ROMANIA | SLOVAKIA |
|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| FDI screening regime does not apply to investors from: | EU EEA Switzerland | Under certain conditions, even EU investors are subject to the FDI regime. | EU | Under certain conditions, even EU investors are subject to the FDI regime. | EU EEA OECD | Under certain conditions, even EU investors are subject to the FDI regime. | Under certain conditions, even EU investors are subject to the FDI regime. |
| Obligation to obtain prior approval for FDI in specific sectors? | YES | YES | YES | YES | YES | YES | YES |
| Is there any <i>de minimis</i> exemption? | YES, for targets with less than 10 employees and annual turnover or annual balance sheet total below EUR 2,000,000. | YES, for investments not exceeding EUR 2,000,000, unless in a high-tech sector or related to the acquisition of less than a 10% stake in the target (may still be subject to ex officio screening). | NO | YES, under the new FDI regime exemption applies if the total value of the investment does not exceed ~EUR 920,000. | YES, if the revenue from sales and services in the territory of Poland in any of the two financial years preceding the notification did not exceed the equivalent of EUR 10,000,000. | YES, investments not exceeding EUR 2,000,000 are exempted from notification (may still be subject to ex officio screening). | NO |
| Is pre-notification or a consultation prior to official filing available? | YES. The investor can apply for a clearance certificate confirming that the investment is not subject to the FDI screening regime. | NO | YES. Clearance within consultation prevents future screening of the investment. | NO | NO | NO | YES. The investor can obtain a non-binding opinion on whether filing for FDI approval is required. |
| What is the time frame for the relevant authority to commence retrospective screening of a completed FDI? | No limit. Investment agreements subject to mandatory approval are null and void unless approved. | 2 years | No limit for investments subject to mandatory approval. 5 years for investments not subject to mandatory approval. | 5 years under both the general and new FDI regimes. | 5 years | No limit | 2 years |
| Is the transaction invalid or void if mandatory approval is not obtained? | YES | NO | NO | YES, under the new FDI regime. | YES | NO, but the government may decide to annul the transaction. | YES, the transaction will be prohibited and the conditions for its reversal implemented. |
| Maximum financial penalty for breach of FDI rules? | Up to EUR 40,000. | 5% of the value of the investment, but not less than EUR 25,000. Additional restrictive measures may also be imposed. | Up to 2% of the investor's global annual net turnover. | Up to EUR 26,000 under the General FDI Regime. Up to twice the value of the transaction under the New FDI regime. | Up to ~EUR 22,000,000. | Up to 10% of the investor's global annual turnover. | Up to 2% of the investor's annual net turnover. |
| What are the expected timelines for FDI screening? | 1 month + (up to 40 days) for phase I and 2 months for phase II of the screening. | 45 days following the filing or the correction of deficiencies in the notification if any (may be extended once, for up to 30 days). | Up to 45 days for consultation. Up to 165 days for screening. | Under the General FDI regime, 60 calendar days. Under the New FDI regime, 30 business days. | 90 days | 60 days (+ up to 75 days) for phase I and 90 days for phase II of the screening. | Up to 45 days for consultation. Up to 130 days for screening. |