

# CERHA HEMPEL CEE NEWSLETTER *Bulgaria*

## New screening of foreign investments in Bulgaria

A revised Investment Protection Act (“**IPA**”) is expected to transpose into Bulgarian law Regulation (EU) 2019/452 of the European Parliament and of the Council establishing a framework for the screening of foreign direct investments into the Union (“**FDI Screening Regulation**”). The purpose of the new rules is to adopt restrictive measures relating to investments or acquisitions that have the potential to harm the national security or public order.

### Screening mechanism

The proposed amendments will introduce a national screening mechanism for foreign direct investments on the grounds of security or public order (“**Screening Mechanism**”). Under the Screening Mechanism, a foreign direct investment is subject to approval by the Interagency Council for the Screening of Foreign Direct Investments Related to Security or Public Order (“**Screening Council**”) if the investment in question meets the following criteria:

- it has as its object the areas of activity referred to in Article 4(1) of the FDI Screening Regulation (such as direct investments that are likely to affect security or public order, and have potential effects on critical infrastructure and/or critical technologies or the supply of critical inputs, as defined in the regulation, access to sensitive information, including personal data, or the ability to control such information); and

- the value of the investment exceeds the threshold of EUR 1,000,000.

Foreign investors wishing to make a foreign direct investment that meets the aforementioned criteria are required to apply for a permit. When examining applications for a direct investment permit, the Screening Council will take into account the criteria set out in Article 4 of the FDI Screening Regulation. Following an evaluation based on those criteria, the Screening Council can decide to grant a permit, grant a conditional permit or refuse to grant a permit.

It is prohibited to make a foreign direct investment before the Screening Council issues the relevant permit.

The proposed scope of affected foreign direct investments is broadly defined, covering certain types of investment below the aforementioned threshold, as well as the expansion of existing investments.

### Penalties

The proposed amendments introduce penalties of up to 5% of the value of the investment for certain violations, such as:

- providing inaccurate, incomplete or misleading information during the application process;
- making a foreign direct investment without a permit;
- making a foreign direct investment in violation of the conditions of a conditional permit issued under the IPA;



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- failing to comply with a measure imposed under the IPA.

The proposed amendments, which are still being debated in Parliament, are expected to be adopted by the end of the year, and it is possible that additional requirements (or requirements that are different from those in the draft) will be included.

## For more information

Boyko Gerginov

Managing Partner Bulgaria

[boyko.gerginov@cerhahempel.com](mailto:boyko.gerginov@cerhahempel.com)

Tel: +359 2 401 09 99