



# CERHA HEMPEL CEE NEWSLETTER *Romania*

## Romania – Amendments to the Foreign Direct Investments (FDI) regime

Government Emergency Ordinance No 108/2023 (GEO 108/2023) amending and supplementing Competition Law No 21/1996 (Competition Law) and other legislation entered into force on 6 December 2023. GEO 108/2023 introduced a number of changes to the legal regime applicable to FDI in Romania.

Under 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 (EU FDI Screening Regulation), Member States are encouraged to introduce FDI screening rules. GEO 46/2022 entered into force on 18 April 2022 and transposed into national law some measures provided for in the EU FDI Screening Regulation, whereas GEO 108/2023 introduced new amendments to Romania's FDI legal regime.

Some of the most important changes introduced by GEO 108/2023 concern the following:

- extension of the notion of FDI
- introduction of an examination fee
- new procedural deadlines

### Extension of the notion of FDI

GEO 108/2023 extends the investment framework by using the definition of "investment" used by the European Union. It is defined as any investment made by an EU investor for the purposes of establishing or maintaining lasting and direct links between the EU investor and the entrepreneur or enterprise for which these funds are intended, for the purpose of performing an economic activity in Romania, including investments

which enable effective participation in the management or control of an enterprise engaged in an economic activity.

Investments (both those made by an EU or foreign investor) are subject to FDI analysis if the following cumulative conditions are met: (i) the investment involves a sensitive sector as specified in Decision No 73/2012 of the Supreme Council of National Defence, and (ii) the value of the investment in Romania exceeded EUR 2 million. However, an FDI not exceeding the above-mentioned threshold may be subject to an FDI review if, by their nature or potential effects (based on the criteria provided in Article 4 of the EU FDI Regulation), such investments have an impact on national security or public order or present risks to them.

### Introduction of an examination fee

Prior to GEO 108/2023, no examination fee was payable. Currently, the fee is set at EUR 10,000, calculated at the exchange rate provided by the National Bank of Romania for the last day of the month preceding the submission of the application. If the Commission examining the investment finds that the conditions for the FDI examination are not met, the fee will be refunded.

### New procedural deadlines

If a positive opinion is received from the Commission examining the investment, the Competition Council will issue a decision approving the investment within a maximum of 10 calendar days for EU investments and within 30 calendar days for all other FDIs.



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