

CZECH REPUBLIC



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1.	Relevant legislation (foreign investment legislation in force)
Act No. 34/2021 Coll., on Foreign Investment Screening	
2.	Relevant authority (foreign investment regulator)
Czech Ministry of Industry and Trade	
3.	Specific sectors covered (foreign investment regime involving specific sectors of the economy / business activities)
<ul style="list-style-type: none"> • Manufacturing / research / development / innovation / lifecycle management of military equipment; • Critical infrastructure: energy, gas, heat, water, food, healthcare, transportation, emergency services, financial markets and public administration; • Critical information infrastructure / cybersecurity; and • Development and production of dual use (military / civilian) products (including software and technology). 	
4.	Types of transactions caught and notification thresholds (definition of a foreign investor / activities / turnover / assets subject to foreign investment assessment / investment threshold - e.g. % of votes in the target triggering the notification)
<ul style="list-style-type: none"> • A <u>foreign investor</u> is any person or legal entity from outside the EU who makes an investment in the Czech Republic, or a person or legal entity who is established in the EU but who is directly or indirectly controlled by a person / entity from outside the EU. • The Act is aimed at foreign investments that provide the foreign investor with “<u>effective control</u>” over the Czech target, which includes: <ul style="list-style-type: none"> ✓ The possibility for the foreign investor to dispose of at least 10% of the voting rights the target person; ✓ Membership of a foreign investor in the statutory bodies of the target person; ✓ Ownership of assets used by the target to perform its business activities; or ✓ Any other form of control which gives the foreign investor access to information, systems or technology important for the security of the Czech Republic and its public order. 	
5.	Parties to be included in the foreign investment assessment (notifying parties and protected entities)

<p>The foreign investor is a participant to the screening process (the notifying party).</p> <p>The target person and its owner may be asked to provide information as part of the screening process, however, they are not given any particular rights.</p> <p>The screening process is conducted by the Ministry of Industry and Trade, which receives statements from a number of other institutions, namely the Ministry of the Interior, the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Finance, the Police of the Czech Republic, the Financial Analytical Office, the National Security Office and the intelligence services of the Czech Republic.</p> <p>Other institutions (e.g. the Ministry of Transport, the Czech National Bank) may also appear in the screening process if their interest is concerned.</p> <p>If there are indications that the investment may pose a threat to the security of the Czech Republic or its public order, the Ministry of Industry and Trade shall submit the matter to the government for consideration. The government then adopts a resolution on whether or not the investment poses a potential threat, which later serves as the necessary basis for the Ministry's decision on the prohibition of a foreign investment.</p>	
6.	Exceptions
<p>The exception to the need for the Ministry's prior approval is where the foreign investment is:</p> <ul style="list-style-type: none"> • made as part of recovery procedures, early intervention measures or crisis resolution on the financial market, or • urgently needed to avert the failure of a target person that is a financial service provider. 	
7.	Notification / review type (e.g. mandatory, pre-closing, suspensory)
<ul style="list-style-type: none"> • A foreign investor submits an <u>application for a foreign investment screening</u> where prior approval from the Ministry is required. Prior approval is required for investments into the following target persons: <ul style="list-style-type: none"> ✓ a target person who performs manufacturing, research, development, innovation or organization of the life cycle of military material, or into a target object through which the said activity is performed; ✓ a target person who operates a critical infrastructure element determined by the relevant central administrative authority; ✓ a target person who is an administrator of an information system belonging to the critical information infrastructure, administrator of a communication system belonging to the critical information infrastructure, administrator of an information system belonging to an essential service, or operator of an essential service; ✓ a target person who develops or manufactures the dual-use goods, or target object through which such goods are developed or manufactured. • In other cases, the Ministry may also initiate a screening <u>ex officio</u> at its discretion if the foreign investment has the potential to affect the security of the Czech Republic or its public order. 	
8.	Possibility for third parties to be involved in the review process (requirements, procedural rights etc.)
<p>The Ministry may ask the target company and its owner to provide information.</p> <p>However, the Act does not establish any particular rights for third parties.</p>	
9.	Filing fee

The application is not subject to an administrative fee.	
10.	Submission deadline / stand-still obligation
The Act does not state any notification deadline. However, the foreign investor shall not initiate the transaction before obtaining Ministry's prior approval (stand-still obligation).	
11.	Availability of pre-notification / informal consultation
<p>Submitting a request for a consultation with the Ministry is either:</p> <ul style="list-style-type: none"> • mandatory - the target person owns a nationwide radio or TV broadcast license, or is a publisher of a periodical that has an overall minimum average circulation of 100 000 prints per day in the past calendar year, or • voluntary - when the investor has an intention to carry out an investment that does not require prior approval, they may ask the Ministry for a consultation as to whether it might be considered as endangering security or public order of the Czech Republic, • if the consultation is negative, the Ministry will not screen this investment ex officio. 	
12.	Scope of information / documents required for filing
<p>To initiate a foreign investment screening, the foreign investor submits an application on a prescribed form together with a questionnaire containing the following information:</p> <ul style="list-style-type: none"> • basic data of the foreign investor and target person: legal entity (company name, registered office, ID No., management data) / natural person (name, surname, date of birth etc.) • information on the ownership structure of the foreign investor and the target person, • information on the products or services and business activities of the foreign investor and the target person, • a list of the EU Member States in which the foreign investor and the target person operate, information about their subsidiaries and branches in the EU, • the source of financing of the foreign investment, • the amount of foreign investment, • the date of planned completion of the foreign investment, • information on the involvement of the target person in projects or programmes of interest to the EU, • information on foreign investor's current shareholdings and voting rights in the target person. 	
13.	Proceedings timetable (timing for review)
<ul style="list-style-type: none"> • Screening of a foreign investor that was <u>not found to pose a risk</u>: 90 days; • Screening of a foreign investor that has been <u>identified as risk-prone</u>, including discussion time required by the Czech government: 135 days; <p>These deadlines can be extended by 30 days in complicated cases.</p> <ul style="list-style-type: none"> • Timeline for the Ministry to provide a response if an investor were to submit a request for <u>consultation</u>: 45 days. 	
14.	Outcome of the review process (clearance, conditional authorisation, possible commitments etc.)

<p>A) If a potential threat is identified in an investment, the Ministry shall issue either a decision on:</p> <ul style="list-style-type: none"> • conditional approval of the foreign investment, • conditional admissibility of the foreign investment, • non-issuance of the foreign investment approval, • prohibition of the foreign investment, or • prohibition of further continuation of the foreign investment (in case of ex officio screening); • as already mentioned, the above decisions are conditional upon the adoption of a <u>government resolution</u> according to which such a decision is necessary for the protection of the security of the Czech Republic or its public order; <p>B) If no threat is identified, the Ministry issues a decision by itself on:</p> <ul style="list-style-type: none"> • approval of the foreign investment, or • admissibility of the foreign investment with no conditions. 	
15.	Publicity of the decision and confidentiality of the information provided
<p>Statements, decisions and related documents provided under the Act containing confidential information pursuant to the Regulation (EU) 2019/452 are not made public.</p>	
16.	Can a decision be challenged or appealed (by whom, on what basis, in which timeframe)
<ul style="list-style-type: none"> • A decision on the prohibition of a foreign investment, which is by law subject to a government resolution, cannot be appealed or revised in a revisory procedure. • The foreign investor can file an action against decision of an administrative authority: <ul style="list-style-type: none"> ✓ legal proceedings before the Czech regional courts, ✓ can be filed within two months of receipt of the decision, ✓ has no suspensive effect. 	
17.	Sanctions for failure to notify (administrative fines or other administrative sanctions, criminal sanctions, civil law consequences)
<p>If a foreign investor fails to notify a transaction / request a mandatory consultation: a fine up to 1% of the total net turnover achieved by the foreign investor for the preceding accounting period, or up to CZK 50 million of the turnover cannot be calculated.</p> <p>If the foreign investor proceeds with a transaction irrespective of a decision on the prohibition of a foreign investment by the Ministry: a fine up to 2% of the total net turnover achieved by the foreign investor for the preceding accounting period, or up to CZK 100 million of the turnover cannot be calculated.</p>	
18.	Other national security review distinct from FDI rules
<p>There is no other national security review in the Czech Republic.</p>	
19.	Significant legislative/regulatory developments in the past year and possible proposals for reform

No changes have been implemented in the past year. In connection with the Regulation (EU) 2022/2560, an amendment to the Act is currently being worked on, which includes cooperation between the Ministry of Industry and Trade and the Czech Competition Authority to investigate potential foreign subsidies distorting the Czech internal market.

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Helpful links

<https://www.mpo.cz/en/foreign-trade/investment-screening/submitting-a-request-for-a-foreign-investment-approval-or-a-consultation-proposal--261351/>