

Foreign direct investment screening in CEE & SEE

Wolf Theiss

Local insight global outlook.



Issue	Austria	Bulgaria ¹	Czech Republic	Hungary	Poland	Romania	Slovak Republic	Slovenia
What kind of transactions are in the scope?	Acquisition of an Austrian legal entity or its material assets, of voting rights (reaching or exceeding certain thresholds) to a relevant extent or of control (irrespective of the percentage of voting rights).	Acquisition of a Bulgarian undertaking or its material assets, exercise of control or effective participation in the management of a Bulgarian undertaking or acquisition of voting rights above the minimum corporate thresholds set in the FDI Act. New investment in assets to start a business or expand a portfolio of business activities.	Acquisition of a Czech undertaking or its material assets, of voting rights to a relevant extent or exercise of control/ gaining of effective control of an economic activity, which enables the investor to (i) enjoy at least 10% of the voting rights or corresponding influence (including the voting rights of persons who are subject to joint management or practices in concert with the foreign investor); (ii) act as or appoint a member of an elected body; (iii) dispose of the property through which the economic activity is conducted or (iv) to gain access to information, systems or technologies that are important for the protection of the security of the Czech Republic or for its internal or public order.	Acquisition of a shareholding as well as legal or de facto controlling influence by other means, directly or indirectly, in a Hungarian strategic company. Setting up of a Hungarian company or a Hungarian branch of a foreign investor, the activity of which is proposed to fall under the scope of the FDI Act. Acquiring the right of use or the operation of infrastructure, equipment or other essential facilities necessary for the operation of electricity, natural gas, water facilities and electronic communication services.	Acquisition of a „significant participation“ or a „dominant position“ in a Polish target – by way of a share deal or an asset deal, which also includes the purchase or lease of the enterprise or organized part thereof.	Acquisition of control in the sense of merger control rules or effective participation in the management of a Romanian undertaking (appointment of at least one board member). New investments: start-up of a new undertaking; capacity expansion of an existing undertaking; diversification of production of an undertaking into products not previously manufactured or a fundamental change in the overall production process of an existing undertaking.	Acquisition of a Slovak undertaking or a part of one; the exercise of effective participation in such an undertaking or the acquisition or increase of effective participation in it; the exercise of control or the acquisition of a right to substantial assets of a Slovak undertaking.	The primary and further subsequent direct or indirect acquisition of at least 10% of shareholdings or voting rights in a Slovenian company. The investment into tangible or intangible assets related to the setting up of a new establishment with which the investor acquires at least 10% of shareholdings or voting rights in a newly established Slovenian company. Please note that according to the views of some officials at the FDI authority, the term “Slovenian company” also encompasses a Slovenian branch office.
Direct and indirect acquisitions?	✓	✓	✓	✓	✓	✓	✓	✓
Share deals?	✓	✓	✓	✓	✓	✓	✓	✓
Asset deals?	✓	✓	✓	✓	✓	✓	✓	✓
Greenfield	X	✓	X	✓	X ²	✓ But also capacity expansion or output diversification	✓	✓
Intra-group restructuring	✓ ³	✓	✓	✓	✓	✓	X	✓

1 **Note on the Bulgarian FDI regime:** the FDI Act is in force as of 12 March 2024, however, it will become fully applicable and investors will be bound to submit mandatory filings after the implementing rules are adopted (not yet adopted as of 06.03.2025).

2 **Note on the Polish FDI regime:** Greenfields as a rule are excluded due to the lack of previous operations of a respective corporate vehicle or not meeting the respective turnover thresholds.

3 **Note on the Austrian FDI regime:** There is no standard rule under statutory law generally excluding FDI scrutiny, but there is a consistent practice of the authority excluding FDI review under certain conditions.

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Only foreign investors?	Non-EU/EEA/Switzerland investors (both natural as well as legal entities); the entire shareholder and control chain is relevant.	Non-EU investors (both natural and legal persons); the entire shareholder and control chain is relevant.	Non-EU investors (both natural and legal persons); the entire shareholder and control chain is relevant.	Principally non-EU/EEA/Swiss investors, but in some instances EU/EEA/Swiss investors as well.	Non-EU/EEA/OECD investors (both natural, as well as legal persons); the entire shareholder and control chain might be relevant, including intermediate companies, particularly ultimate beneficial owners.	Both EU and non-EU investors	Non-EU investors; the entire shareholder and control chain is relevant. This includes intermediate companies and ultimate beneficial owners where financing of the transaction is provided by a non-EU government or the investor acts in concert with a non-EU investor, a non-EU government or an entity owned/controlled by such.	Non-EU investors; the entire shareholder and control chain is relevant, including intermediate companies and ultimate beneficial owners.
What kind of sectors are in the scope?	<p>Particular sensitive sectors: e.g. defence; energy infrastructure; digital infrastructure; water; systems that guarantee the data sovereignty of the Republic of Austria .</p> <p>Non-exhaustive list of “other” sensitive sectors such as critical infrastructure (e.g. energy, information technology, finance, data storage); critical technologies and dual-use items; access to sensitive information; freedom and plurality of the media.</p> <p>FDI authority applies an extremely extensive approach with respect to the sectors covered (also accessory activities).</p>	<p>Sectors covered by Article 4 of EC Regulation 2019/452.</p> <p>High-technology activities (broader list to be refined as per secondary legislation).</p> <p>Particular focus on oil and petroleum products (i.e. production of energy products from oil and petroleum, as well as products in facilities that are part of or adjacent to critical infrastructure).</p>	<p>Production/research/development/innovation of military equipment.</p> <p>Production and development of dual-use goods.</p> <p>Critical infrastructure: Energy; gas; heat and water management; food and agriculture; healthcare; transportation; communication and IT systems; financial markets; emergency services and public administration.</p>	<p>Weapons and military equipment; dual-use items; financial and insurance services; electricity and gas transmission; distribution and system operation; water supply; critical telecommunication services under the FDI Act.</p> <p>Under the Alternative FDI Regime, a sweeping range of industries that include manufacturing and chemicals; food and agriculture; health and medical; waste and building materials; transport and logistics; energy and renewable and even higher education.</p>	<p>Core sectors, including: Energy; oil and gas; chemicals; fertilizer and chemical products; explosives, arms and ammunition and products or technology with military or police applications; telecommunications; medical devices and products; medicinal and other pharmaceutical products; processing of meat, milk, cereals, fruits or vegetables.</p> <p>All publicly listed companies; entities owning assets in strategic infrastructure, IT industry and so on.</p> <p>Strategic companies explicitly listed in the Regulation attached to the Polish FDI Act (subject to further updates).</p>	<p>Old list of 13 sectors in scope: Citizens’ and communities’ security; border security; energy security; transport security; supply systems for security of vital resources; critical infrastructure security; security of information and communication systems; security of financial, tax, banking and insurance activities; production and distribution of weapons, ammunition, explosives and toxic substances; industrial security; protection against disasters; protection of agriculture and the environment and protection of the privatisation of state-owned companies or of their management teams.</p> <p>Sectors covered by Article 4 of EC Regulation no. 2019/452.</p> <p>Specific transparency rules for media sector.</p>	<p>Manufacturing of firearms; their parts; ammunition; optical instruments; explosives; pyrotechnic products or devices for jamming electronic signals.</p> <p>Production, research, development or innovations in (i) military technology or equipment; (ii) dual-use items; (iii) in the field of biotechnology and the healthcare sector or (iv) encryption technology or components thereof or being in possession of such components or technology.</p> <p>Operating of an element of critical infrastructure or a basic service related to it; operating a basic service; providing digital services in the sector of cloud computing; having a broadcasting license; providing shared platform services; publishing periodic press; operating a news web portal and operating a press agency.</p>	<p>Critical infrastructure: Energy; transport; water; health; communications media; data processing and storage.</p> <p>Critical technology and dual-use goods: Artificial intelligence; robotics; semi-conductors; cyber security; aviation; space and defence technology; energy storage technology; quantum and nuclear; as well as nano and biotechnology.</p> <p>Supply of critical resources: Energy, raw materials and food security.</p> <p>Access to and control of sensitive information (e.g. personal data).</p> <p>Freedom and plurality of the media.</p> <p>Projects and programs in the interest of the European Union.</p>

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No filing based on the <i>de minimis</i> exemption (target related or based on investment value)	<p><i>De minimis</i> exemption (micro enterprises and startups):</p> <p>(i) Fewer than 10 employees and</p> <p>(ii) annual turnover or balance sheet total of less than EUR 2 million.</p> <p>Note: The authority does not look at the last year only, but at the past few years – hence, a case-by-case assessment is strongly recommended.</p>	<p>Below 10% of the share capital of a local company in case of high-technology activities.</p> <p>Below 10% of the share capital and the investment value below EUR 2 million in case of Article 4 of the EC Regulation 2019/452.</p> <p>For greenfield investment, below EUR 2 million.</p> <p>Such exemptions would not apply to (i) FDI in activities associated with oil and petroleum products; (ii) FDI from an investor from Russia or Belarus; (iii) investments where a non-EU State has (direct or indirect) participation in an investor's share capital or said state has provided significant financing to the investor (with exceptions listed in the FDI Act)</p>	<p>No exemption applies to transactions that qualify as critical.</p>	<p>The deal value must exceed HUF 350 million/EUR 0.9 million) for acquisitions of a majority control by EU/EEA/Swiss investors or at least 5% (3% in a public entity) shareholding by non-EU/EEA/Swiss investors under the Alternative FDI Regime.</p>	<p><i>De minimis</i> exemption: the target's Polish turnover was below EUR 10 million in each of the 2 years preceding the transaction.</p> <p>No <i>de minimis</i> exemption for strategic companies explicitly listed in the Regulation attached to the Polish FDI Act (subject to further updates).</p>	<p>No filing is required if the investment value is below the EUR 2 million threshold.</p> <p>In case of international deals, the internal evaluation of the Romanian target is relevant.</p>	<p>No filing is required unless the transaction involves an acquisition of at least 10% of voting rights or registered capital in the Slovak target undertaking.</p>	<p>X</p>

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Corporate thresholds?	Particular sensitive sectors: Reaching or exceeding 10%, 25% or 50% of voting rights. Other sectors: Reaching or exceeding 25% or 50% of voting rights.	Minimum 10% of the share capital. No minimum threshold for (i) FDI in activities associated with oil and petroleum products ; (ii) FDI from an investor from Russia or Belarus; (iii) investments that may affect national security and the public order; (iv) investments where a non-EU State has (direct or indirect) participation in an investor's share capital or said state has provided significant financing to the investor (with exceptions listed in the FDI Act).	Minimum 10% of the voting rights or corresponding influence in an entity conducting the economic activity.	Non-EU, -EEA or -Swiss controlled investors under the FDI Act: 25% (or 10% in the case of public companies) or if combined with other foreign investors, existing shareholding exceeds 25%. Non-EU, -EEA or -Swiss controlled investors under the Alternative FDI Regime: If their shareholding reaches 5% (or 3% in cases of public companies and if the deal value exceeds HUF 350 million/ EUR 0.9 million) or 10%, 20% and 50% thresholds or if combined with other foreign investors existing shareholding exceeds 25%. EU/EEA/Swiss controlled investors under the Alternative FDI Regime: Above 50% if the deal value exceeds HUF 350 million/ EUR 0.9 million.	Acquisition of dominance over the Polish target or reaching/ exceeding a significant participation in the Polish target – minimum applicable threshold material for the transaction is 20% of the voting rights, share capital or profits.	No minimum thresholds as long as the shareholding gives control rights or rights to effectively participate in the management of a Romanian undertaking.	For critical foreign investments, the acquisition of at least 10% of share capital or voting rights in the Slovak target undertaking. For other foreign investments not falling within specified sectors, the acquisition of a minimum 25% of share capital or voting rights in the Slovak target undertaking.	A minimum 10% of share capital or voting rights. A dilution mechanism applies when calculating the percentage of the shareholding in indirect acquisitions. For example, if a foreign investor (as an indirect investor) acquires 10% of shares in a company (direct shareholder) that holds 51% of shares in the Slovenian target, it is (for FDI purposes) considered that it has acquired a 5.1% (indirect) shareholding (10% x 0,51 = 5,1%).
Mandatory filing	✓	✓	✓	✓	✓	✓	✓	✓
Suspensory effect	✓	✓	✓	✓	✓	✓	✓	x

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Call in powers? (<i>Ex officio</i> examination)	The Austrian FDI authority can initiate clearance proceedings <i>ex officio</i> if it becomes aware of an investment that has not been notified. There is, however, no discretion for the Austrian FDI authority to call-in investments below the thresholds.	Call in powers below the thresholds.	The Czech FDI authority can <i>ex officio</i> review any transactions involving a Czech undertaking or assets in the Czech Republic that might endanger the security of the Czech Republic or its internal or public order.	X	X	Call in powers below EUR 2 million <i>de minimis</i> threshold.	Call in powers in non-critical sectors within 2 years of closing.	Call in powers in critical sectors within 2 years of signing. The FDI Authority may, in cases where it already issued an FDI approval or if there was no prior FDI filing, open an in-depth review process (Phase II) within 2 years of signing and issue a (new) decision to (i) approve the FDI without conditions, (ii) approve the FDI and determine conditions for its implementation or (iii) prohibit the FDI.
Filing deadlines and fines	Immediately after signing of the agreement or after the announcement of the intention to launch a public takeover bid.	No filing deadline before closing.	No filing deadline: According to the FDI authority, filing should be done before the signing of the transaction, however, sanctions only apply for failing to bring the closing of the transaction to a standstill.	10 calendar days following the conclusion of the binding agreement that is meant to bring about the transaction. The fines below can be applied for missing the filing deadline.	There is no filing deadline, but closing comes to a stand still (pre-closing clearance required). Post-closing filings are only allowed for specified categories of indirect acquisitions or follow-up acquisitions.	No filing deadline, but suspended until closing.	No filing deadline (prior clearance mandatory). The foreign investor must (i) file a report on the execution of the foreign investment within 2 months from closing, (ii) register in the registry of Public Sector Partners within 3 months from closing and (iii) file monitoring reports by the end of June of each year for 3 years following closing.	No later than 15 days after: <ul style="list-style-type: none">• The signing of the transaction;• The announcement of the takeover bid; or• The entry of the newly established company into the Slovenian court and business register. Missing the filing deadline may trigger fines (see below).

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Review timeline	<p>Phase I proceedings will formally start only after a complete filing has been submitted and after the EU co-operation mechanism (which takes around 35 days) has been completed.</p> <p>Phase I: After filing is complete and the EU cooperation mechanism has been concluded, a maximum of 1 month.</p> <p>Phase II: Phase II may take up to an additional 2 months.</p>	<p>Expected about 60 days in practice.</p> <p>Statutory 45 calendar days, plus 3 days (preliminary review) and 7 days to respond to requests for information; the review may be extended for up to 30 days.</p> <p>In cases where the FDI is likely to affect projects/ programmes of Union interest (art. 8, FDI Regulation 2019/452), the clock stops until an opinion from the European Commission is obtained.</p>	<p>About 90 days after review proceedings have been initiated; in more complex cases an extension of up to 30 days is possible.</p>	<p>Under the FDI Act, the review period lasts 60 calendar days, which can be extended by up to another 60 calendar days.</p> <p>Under the Alternative FDI Regime, the review period lasts 30 business days and may be extended by up to 15 calendar days.</p>	<p>Phase I: 30 business days for denying the procedure or to initiate Phase II (the controlling stage).</p> <p>Phase II: 120 calendar days - when the competent authority has doubts (e.g. due to missing documents or information).</p> <p>Regarding the strategic companies explicitly listed in the Regulation attached to the Polish FDI Act – no longer than 90 calendar days.</p>	<p>Phase I: Statutory deadline of 135 days for non-problematic investments. In practice, the review procedure takes around 2 months (slightly shorter for EU based investors).</p> <p>Phase II: In-depth review procedures take an additional 90 days to obtain an opinion from the Supreme Council of National Defence, based on which the Government will issue a conditional clearance or prohibition decision.</p>	<p>Maximum of 130 calendar days for mandatory screening procedure, after which deemed consent applies. Statutory periods are stopped when an RFI is issued.</p> <p>In the first year of application of the FDI regime, the average duration of the mandatory screening procedure was 95 days.</p>	<p>Phase I (about 2 - 4 months/ term not binding): Preliminary review by the notification commission after which the FDI authority (within 2 months after receiving the notification of the commission's opinion / term not binding) issues its decision to either approve a foreign direct investment or to initiate Phase II.</p> <p>Phase II (up to 2 years after signing + 2 additional months/ term not binding): In-depth review process performed by an expert group (at the latest 2 years after the signing) on the basis of which the FDI authority (within 2 months after receiving the expert group's opinion) issues its decision to (i) approve the FDI without conditions, (ii) approve the FDI and determine conditions for its implementation or (iii) to prohibit the FDI.</p>

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Sanctions	<ul style="list-style-type: none"> • By operation of statutory law, the transaction is under a condition precedent of clearance being granted (i.e., it will be null and void until clearance is granted). • Criminal sanctions of up to one year's imprisonment (or up to three years' imprisonment in qualified cases) in particular in cases where (i) a notifiable direct investment is carried out without authorisation; (ii) non-compliance with commitments or (iii) incomplete or incorrect information is provided in order to obtain authorisation to carry out a direct investment. Both responsible individuals (potentially even advisors involved) as well as legal entities acting as the acquirer will be subject to punishment. • Fines of up to EUR 40,000 or imprisonment of up to six weeks (up to EUR 25,000 in case of negligence) for anyone who, for example, violates (i) the target company's duty of disclosure or (ii) information obligations within the framework of the EU cooperation mechanism. 	<p>Fines of 5% of the investment value but not less than BGN 50,000 (approx. EUR 25,500) for (i) implementing an FDI prior to clearance; (ii) providing inaccurate, incomplete or misleading information; (iii) implementing FDI in breach of imposed conditions; (imposed conditions include the restriction of the right to acquire up to 20% of the capital of a company; the limitation of the right to acquire up to 10% of the capital of a company in the case of high-tech industries; the prescriptions for the protection of personal data for the preservation of information security or others; the reservation of special rights in favour of the State (for transactions related to privatisation)); (iv) implementing FDI in breach of imposed restrictive measures such as</p> <ul style="list-style-type: none"> • termination of the acquired control, • a change in or termination of commercial activity or the • termination of the investment in its entirety. 	<p>Failure to obtain a mandatory clearance is punishable by a fine up to 1% of the offender's annual turnover over the preceding financial year. Moreover, the FDI Authority can force the investor to cease to exercise the voting rights or to sell the assets which constitute the investment.</p> <p>If the investor fails to comply - up to 2% of the offender's annual turnover (the obligation to sell the assets or cease to exercise the voting rights is not exhausted and still applies).</p> <p>Do the same fines apply for gun-jumping? [If gun-jumping refers to the investor proceeding without obtaining a mandatory clearance, then the fine is 1% (see above).</p>	<p>A transaction implemented without having first obtained clearance would be considered null and void.</p> <p>Fines of (i) up to HUF 10 million under the FDI Act; (ii) at least 1% of the Hungarian target entity's annual net turnover in the preceding financial year under the Alternative FDI Regime.</p>	<p>Actions implementing the transaction are null and void until clearance is granted.</p> <p>Prohibition of the exercise of the foreign investor's voting rights or any other rights resulting from acquired shares without clearance.</p> <p>Responsible persons - imprisonment from 6 months to five years.</p> <p>Fines: Up to PLN 100,000,000 (approximately EUR 22,000,000).</p>	<p>Fines of up to 10% of the investor's global turnover for (i) gun-jumping (implementation of the investor prior to clearance); (ii) providing inaccurate, incomplete or misleading information; (iii) delaying the submission of the information requested or (iv) breaching the conditional clearance decision</p> <p>For newly setup investors, fines between EUR 2 million and EUR 10 million will apply.</p> <p>Nullity of the contractual clauses in breach of the standstill obligation.</p> <p>The Government may order measures to annul the investment if it finds it is contrary to national security.</p>	<p>Fines of up to 1-2% of (i) the aggregate turnover generated in the last accounting period by the foreign investor's group or (ii) the value of the foreign investment may be imposed on the foreign investor (whichever is higher).</p> <p>Fines of up to EUR 50,000 may be imposed on the Slovak target undertaking for non-compliance with the FDI Act (e.g. in cases of non-cooperation or providing false information).</p>	<p>Fines between EUR 100,000 and EUR 500,000 (depending on the legal entity's size) along with a fine of between EUR 2,000 and EUR 10,000 to its responsible person(s).</p>

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Potential conditions and commitments	<p>The Austrian FDI Act does not specify potential commitments or conditions. In practice, possible commitments / conditions include (i) site guarantees; (ii) supply guarantees for a certain period of time; (iii) reporting obligations to the Authority and (iv) ring-fencing of technology (e.g. patents and other intellectual property rights).</p> <p>According to recent statistics presented by the co-head of the Austrian FDI authority, only 4% of cases required remedies in 2022 and 2023 (there are no statistics available for 2024).</p>	<p>Potential commitments specified:</p> <ul style="list-style-type: none"> • Restriction of the right to acquire up to 20% of the capital of a company (or up to 10% in the case of high-tech industries). • Prescriptions for the protection of personal data and for the preservation of information security or others. • Reservation of special rights in favour of the State (for transactions related to privatisation). 	<p>Potential conditions and commitments can be agreed to individually between an investor and the FDI Authority during the FDI review procedure. The conditions must then be approved by the government. The purpose of the conditions/commitments is to limit potential risks of the investment to the national security or public order of the Czech Republic. None of the cases reviewed by the FDI Authority so far have required the imposing of any conditions or commitments.</p>	<p>Under both Hungarian FDI regimes, clearance by the competent Ministry is unconditional. The law and process do not foresee that clearance can be combined with conditions and/or commitments.</p>	<p>The law only foresees for unconditional clearance.</p>	<p>In Phase II, the Romanian Government may authorise the investment, subject to structural or behavioural commitments (there is no express list in the law, so far there has been a limited number of cases, with the potential for increase).</p>	<p>Clearance may be subject to conditions that are imposed on a case-by-case basis.</p> <p>In the first year of application of the FDI regime, no clearance was subject to conditions.</p>	<p>The following conditions for the implementation of a transaction may be determined for a certain period (not longer than 10 years):</p> <ul style="list-style-type: none"> • The prohibition of the sale of copyright and related rights owned by the target company, the acquired company or the newly established company to natural or legal entities from third countries. • The prohibition of the sale of certain tangible and intangible fixed assets acquired through direct foreign investment. • The prohibition of business cooperation with a legal or natural person that affects the public order or national security in any of the member states, if this has been established by either the member state or the European Commission. • The obligation to reduce the share acquired in the target company, the acquired company or the newly established company.

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								<ul style="list-style-type: none"> • The commitment that certain parts of the target company, the acquired company or the newly established company will be preserved in the Republic of Slovenia. • The obligation to transfer certain sensitive activities from the target company, the acquired company or the newly established company in the Republic of Slovenia to another legal entity based in the Republic of Slovenia. • The prohibition of certain practices in the Slovenian market. • The obligation to continuously perform the original activity of the target company, the acquired company or the newly established company in the Republic of Slovenia. • The obligation to provide goods and services from the original activity of the target company or the acquired company.

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Will the transaction become public following submission of the filing?	FDI filing submissions are not published. FDI filings and decisions are treated as confidential and will not be published either.	The FDI Act does not provide for publication of the FDI filing submissions or FDI decisions.	The FDI authority does not publish FDI filing submissions nor decisions.	The relevant Ministers (as Hungarian FDI authorities) do not publish either FDI filings or the resulting decisions.	Not specified. According to current practice, the information on submissions is not being published.	No publication of the filing. FDI unconditional clearance decisions are published on the Romanian Competition Council website, subject to confidentiality claims. The conditional clearance decisions by the Romanian Government are published in the Official Gazette, subject to classified information.	The Slovak FDI authority does not publish FDI filing submissions. Filings and decisions are treated as confidential and will not be published.	FDI filings and decisions by the Slovenian FDI authority are treated as confidential and will not be published.
Filling fees	X ⁴	X	X	X	X	EUR 10,000	X	X

4 **Note on the Austrian FDI regime:** Minor fees for administrative duties – a few 100 EUR, depending on volume of documents filed.

Note: This resource reflects FDI laws in force as of 06.03.2025.

Where talented people are in good **company**



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