

M&A in the defence sector

Select key considerations for strategic and financial buyers

17 June 2025

Heightened geopolitical tensions, NATO rearmament drives and persistent threats to European security have pushed the defence sector to the top of many investors' agendas. With governments across Europe recommitting to hard power, defence M&A is entering a phase of strategic relevance not seen since the Cold War. Yet, as opportunities expand, so do the legal and regulatory complexities. This Client Alert aims to outline certain key legal considerations for dealmakers engaging in M&A in the CEE region, in this uniquely sensitive and highly regulated sector.

1. Foreign investment and national security screening

Foreign direct investment (FDI) regimes have become one of the key regulatory approval processes across jurisdictions, with defence assets receiving the highest levels of scrutiny. Transactions involving critical technologies, sovereign defence contractors or dual-use capabilities increasingly trigger:

- mandatory pre-closing notifications, often with long review periods;
- stringent remedies, including ring-fencing sensitive operations or excluding certain investors from decision-making roles; and
- geopolitical assessments beyond the traditional merger control analysis.

Strategic buyers and funds with non-domestic LPs should prepare for overlapping review regimes in multijurisdictional deals. These review and approval proceedings typically require extensive preparation in great detail and may significantly impact the feasibility and overall timeline of transactions. Our advice to investors considering potential deal opportunities is to evaluate likely required approvals early in the process and to factor them into their planning and wider deal considerations – not only from a timing perspective, but also with regard to structuring and substance.

2. The rising strategic value of defence assets

Europe's defence posture is undergoing a transformation. Germany plans to raise defence and defence-related spending to over 5% of GDP, with ambitions to create NATO's strongest conventional army. The UK has accepted all recommendations of its 2025 Strategic Defence Review, but funding gaps remain, creating pressure for industrial consolidation and innovation partnerships.

The Baltic states and Poland are already leading the way – spending 5% of GDP and pursuing a much stronger military and full energy autonomy from Russia. In this context, private capital is likely to play a greater role in enabling faster and more scalable development of national defence capabilities.

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3. Export controls and classified information handling

Defence M&A transactions raise material export control and security clearance issues, particularly where:

- sensitive technologies or classified contracts are involved;
- non-national access to technical data or personnel requires license modifications or extensive clean teams; and
- buyers need to plan for post-closing regulatory compliance upgrades, including new export registrations and security audits.

Early-stage diligence should map the full export footprint of the target – including intangible transfers and multinational R&D partnerships.

4. Customer consent and contractual dependencies

In contrast to purely commercial sectors, defence businesses are most likely going to be deeply embedded in government structures. Potential investors should therefore aim to assess the following, as early as possible, in a transaction process:

- Consent rights and change-of-control (CoC) provisions under key supply and procurement contracts.
- The likelihood of innovations, particularly in cross-border contracts with NATO or EU agencies.
- The reputational and strategic importance of key programmes, especially where targets support high-profile or politically sensitive platforms.

5. Transaction structuring and risk mitigation

Given execution risks in this sector, parties are well-advised to consider a broader range of transaction structures, such as the following:

- Staggered closing mechanisms to isolate regulated assets pending approval.
- Earn-out or price-adjustment clauses to reflect regulatory outcomes or loss of key counterparties due to exercise of CoC or early termination rights.
- Enhanced warranty and indemnity structures around cybersecurity, technology/IP, licensing and data handling.

Careful sequencing of FDI, competition and export control filings is essential to preserve confidentiality and mitigate conditionality risk.

Final Thoughts

With major European economies rearming and realigning their industrial bases, the defence sector offers both strategic and financial upside. However, successful execution requires more than transactional acumen. Buyers must build regulatory foresight, plan for political engagement and be prepared to structure around risk.

As the defence sector becomes central to Europe's economic and geopolitical future, so too must legal and deal strategies evolve. Our team is actively advising buyers, investors and contractors navigating this complex space.

About Wolf Theiss

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For more information, please contact:



Florian Kuszner

Position

E florian.kuszner@wolftheiss.com

T +43 1 51510 1590



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