

Shield 4.0 – The Senate scales back the Polish competition authority's power to block investments

On 19 June 2020, the lower chamber of Polish parliament, the Sejm, accepted the Senate's modifications to the legislative Act of 24 July 2015 regarding control of certain investments ("the Act"). The Sejm's original amendments to the Act provided for blocking investments which would lead to attainment of a significant stake or of a dominant position over a protected entity by an entity ("the Investor") who:

- (1) **is not a citizen of a member state** (for natural persons) or
- (2) **does not have a seat within a member state and/or did not have a seat within a member state for at least 2 years prior to filing of the proposed investment** (for entities other than natural persons).

In light of the changes now introduced by the Senate, a member state shall be defined as:

- A member state of the European Union;
- A party to the treaty establishing the European Economic Area;
- **A member of the Organisation for Economic Cooperation and Development (OECD).**

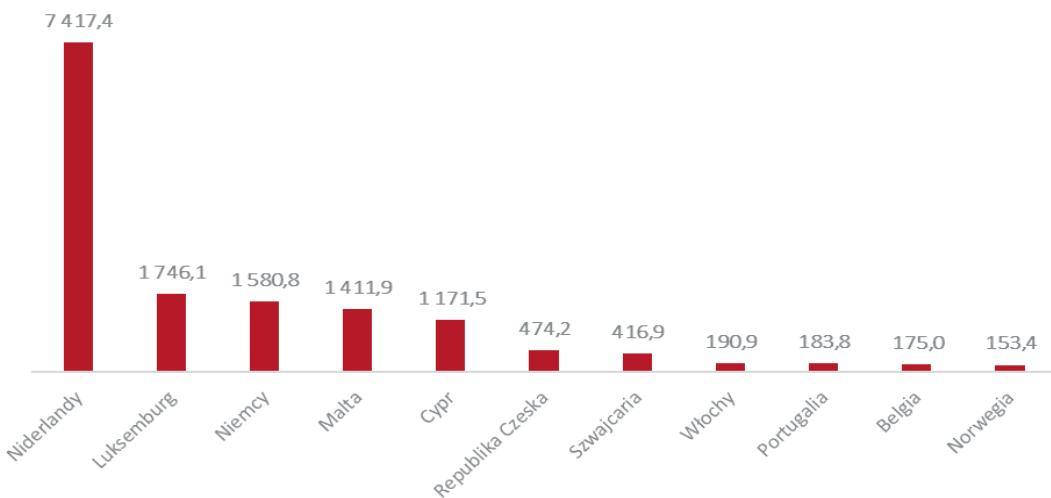
In light of these developments, the duty of notifying to the Polish Office of Competition and Consumer Protection (UOKiK) proposed investments which would result in acquisition or achievement of a significant stake **shall not apply to entities (citizens of, companies registered in) the following countries**: Austria, Australia, Belgium, Bulgaria, Croatia, Cyprus, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, Ireland, Iceland, Israel, Japan, Canada, Columbia, South Korea, Liechtenstein, Lithuania, Luxembourg, Latvia, Malta, Mexico, the Netherlands, Germany, Norway, New Zealand, Portugal, Romania, Slovakia, Slovenia, Switzerland, Sweden, Turkey, the United States, Hungary, and the United Kingdom.

Countries whose citizens / companies will be bound by law to notify proposed acquisition of a significant stake or dominant position to UOKiK, meanwhile, include Russia and China.

Foreign investments in Poland

The National Bank of Poland puts the inflow of foreign investment into Poland in 2018 at PLN 50.4 billion

Napływy BIZ do Polski w 2018 roku (mln EUR)



As at late 2018, foreign investors in the Polish economy represented **118 countries, predominantly (91.4%) from the European Union**. Broken down by country, the highest investment inflows into Poland were from the Netherlands (23.2% of total foreign capital), Germany (16.6%), and France(12.8%)¹.

In 2019, the value of foreign direct investment in Poland was PLN 50.8 billion, with the highest amounts committed by investors from Germany, the Netherlands, and Spain.

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¹ https://www.paih.gov.pl/polska_w_liczbach/inwestycje_zagraniczne;