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Austria

INVESTING IN

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This country-specific Q&A provides an overview of investing in laws and regulations applicable in Austria.

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AUSTRIA

INVESTING IN



1. Please briefly describe the current investment climate in the country and the average volume of foreign direct investments (by value in US dollars and by deal number) over the last three years.

Despite the continuing geopolitical challenges, the investment climate in Austria continues to remain positive. The volume of foreign direct investments has steadily increased over the last three years since the onset of the COVID crisis in 2020. In 2021, foreign direct investment transactions increased by more than one-third (35%) compared with 2020, from 76 to 103 transactions. In 2022, total investment remained constant at this level (101 transactions). As for the total amount of foreign capital that is currently deployed in Austria, this amount has steadily increased over the past years from USD 178 billion in 2020 to over USD 199 billion in 2021 and to USD 203 billion in 2022 (according to preliminary data of the Austrian National Bank).

With respect to M&A transactions, “inbound” transactions, i.e. transactions where foreign investors acquire shares in Austrian companies, fell by 18 deals (12.5 %) to 115 deals in the year 2022. However, foreign investors still have continued to be active in Austria in 2023. The largest foreign players on the Austrian M&A market are German investors with a total of 36 inbound transactions – corresponding to 31.3% of all inbound purchases of Austrian companies.

2. What are the typical forms of Foreign Direct Investments (FDI) in the country: a) greenfield or brownfield projects to build new facilities by foreign companies, b) acquisition of businesses (in asset or stock transactions), c) acquisition of minority interests in existing companies, d) joint ventures, e) other?

In 2023 there was a slight decrease in greenfield FDI projects. Nevertheless, Austria counted a healthy 32

greenfield investment projects.

While the EU Foreign Direct Investment Screening Regulation ((EU) 2019/452) as well as the COVID-19 pandemic had a significant impact on the FDI landscape of Austria, Austria remains an attractive investment country for foreign investors.

As regards share deals, companies on the Austrian market are to a large extent controlled by majority shareholders. The amount of majority shareholdings in Austrian companies is equally split between domestic and foreign majority shareholders, meaning that 42% of domestic investors hold majority shareholdings and 43% of foreign investors hold majority shareholdings. By the same token, 58% of domestic investors are minority shareholders and 57% of foreign investors are minority shareholders.

Although the proportion of majority and minority shareholdings is similar, there is a striking difference in the proportion of such majority shareholdings. For every foreign majority stake there are nine domestic ones. Almost every nine out of ten euros of equity (86%) are held via majority shareholdings. As a result, less than one half of all equity investments make up the majority of the equity held. Conversely, the majority of investors hold a significantly smaller proportion of total equity.. Foreign majority shareholdings tend to comprise higher percentages of equity than domestic ones. In total, however, equity held by domestic majority owners is approximately four times that of their foreign counterparts.

3. Are foreign investors allowed to own 100% of a domestic company or business? If not, what is the maximum percentage that a foreign investor can own?

Foreign investors are allowed to own 100% of an Austrian company. In fact, a large number of Austrian companies has a foreign company as their sole shareholder. The number of Austrian companies that are

part of a foreign group or are owned by foreign shareholders has steadily risen and reached approximately 6 % in 2017, which at that time was roughly equal to 11,500 companies. The ownership structure of Austria's 600 largest companies paints a different picture though. Based on an older study from 1998 over a third these companies was controlled by foreign shareholders. Given the developments since 1998, it is safe to assume that this percentage has substantially increased over time. However, it should be noted that investment control procedures may be applicable with respect to companies which are active in certain protected sectors such as banking and critical infrastructure. The concrete prerequisites under which the acquisition of shares / assets of an Austrian company is subject to an FDI approval are laid out in more detail in section 17.

4. Are foreign investors allowed to invest and hold the same class of stock or other equity securities as domestic shareholders? Is it true for both public and private companies?

Yes, there is no discrimination as concerns the class of stock or rights and obligations in connection with an equity investment of a foreign company in an Austrian domestic company. This is true for public and private companies.

5. Are domestic businesses organized and managed through domestic companies or primarily offshore companies?

This question is not fully applicable to Austria. Unlike in other countries, it is not possible for Austrian companies to have entities as managing directors or members of the board. Managing directors must be natural persons.

6. What are the forms of domestic companies? Briefly describe the differences. Which form is preferred by domestic shareholders? Which form is preferred by foreign investors/shareholders? What are the reasons for foreign shareholders preferring one form over the other?

Austrian commercial law essentially differentiates between two types of companies: private partnerships on the one hand and corporations (most importantly: limited liability companies and stock corporations) on the

other. Whereas both categories can be further subdivided, the limited liability company is by far the most commonly used company type by foreign and domestic investors alike. In 2022 3 out of every 4 newly established companies was a limited liability company. The reason for this is that the Austrian company with limited liability (GmbH) offers a great deal of flexibility, without burdening the shareholders with direct liability issues vis-à-vis third parties as in a partnership. There is also great flexibility in the drafting of the articles of association and the managing directors are subject to instructions to be issued by the shareholders. In contrast thereto, an Austrian stock corporation is quite rigid and formal, requires a supervisory board and the board of directors acts independently and thus is not subject to instructions issued by the shareholders.

Quite recently the Austrian lawmaker started an initiative to make the company with limited liability even more attractive for start-ups and foreign investors by introducing the so-called "flexible company", which essentially is based on the Austrian company with limited liability.

Flexible companies combine certain aspects of the Austrian limited liability company with those of Austrian stock corporations. The main features are the lowered requirement for share capital (EUR 10,000 instead of EUR 35,000), the possibility to issue shares with a nominal amount of 1 Euro Cent as compensation for employees and lowered formal requirements (no notarial deed required for a transfer of shares). The minimum capital contribution for a flexible company is EUR 1 (compared to EUR 70 in the case of a limited liability company), making very small shareholdings possible. This makes the flexible company highly attractive for start-ups. It is expected that the flexible company will be available starting 1 January 2024.

7. What are the requirements for forming a company? Which governmental entities have to give approvals? What is the process for forming/incorporating a domestic company? What is a required capitalization for forming/incorporating a company? How long does it take to form a domestic company? How many shareholders is the company required to have? Is the list of shareholders publicly available?

The core requirement for forming a company under Austrian law are its articles of association, which have to be set up by the shareholders. The remaining

requirements for forming a company differ with respect to each type of company.

Which governmental entities have to give approvals: As concerns the mere establishment of a company, no administrative or other governmental approval is required. However, if a company is to conduct business in a field that is subject to certain trade law regulations (e.g. section 94 of the Austrian Trade Law Act (Gewerbeordnung 1994)) or other restrictions (such as operating a bank) an administrative approval for the conduct of such business is necessary. This, however, does not prevent the establishment of the company.

What is the process: The initial shareholders to a partnership have to conclude the articles of association and have the company entered into the commercial register. The establishment of a company with limited liability requires a notarial deed and entry in the commercial register. The managing directors need to make the respective filings with the commercial register. The articles of association need to be submitted as well. The establishment of a stock corporation follows the same concept, with minor deviations concerning, inter alia, the appointment of the supervisory board and the payment of the share capital. In case of specific companies with limited liability which have only one shareholder, it is possible to establish the company through a simplified electronic process.

What is a required capitalization for forming/incorporating a company: As regards partnerships, there is no minimum capitalization required. Companies with limited liability require a share capital of EUR 35,000, half of which needs to be paid in. Currently Austrian limited liability companies also can be established with a reduced capital of EUR 10,000, whereby EUR 5,000 must be paid via cash deposit. With the planned establishment of the Austrian flexible company (starting 1 January 2024), the required share capital for both the flexible company as well as the ordinary Austrian limited liability company will be lowered to EUR 10,000 permanently. Payment of the share capital needs to be evidenced by a bank certificate. Stock corporations require a stock capital of at least EUR 70,000 out of which the full amount has to be paid in.

How long does it take to form a domestic company: The process from the first step to the finally registered company can be generally completed in less than two weeks, provided that the company is a standard company with standard articles of association.

How many shareholders is the company required to have: There is no minimum number of shareholders required for corporations; therefore a single shareholder

can form a company with limited liability or a stock corporation. However, the establishment of a partnership requires at least two partners.

Is the list of shareholders publicly available: A list of shareholders for limited liability companies is publicly available in the commercial register; the same is true for private partnerships. However, in general no such publicity exists for stock held in stock corporations, unless a stock corporation only has a single shareholder, in which case the name or the company name of the single shareholder needs to be registered. In addition, companies such as private partnerships, limited liability companies and stock corporations must register their ultimate beneficial owner (UBO) pursuant to the Austrian Beneficial Owners Register Act.

8. What are the requirements and necessary governmental approvals for a foreign investor acquiring shares in a private company? What about for an acquisition of assets?

As concerns acquisition of shares / assets in a private company, Austrian law provides that under certain requirements a mandatory FDI filing needs to be made, if the acquirer of the shares in the company is considered to be a foreign person pursuant to the Austrian Investment Control Act. Investment control procedures are, however, only applicable towards foreign direct investments in target companies if the target company operates in a certain protected sector. The concrete prerequisites under which the acquisition of shares / assets of a private company is subject to an FDI approval are laid out in more detail in section 17.

In addition, if a foreign investor intends to complete a share deal, whereby the company's assets comprise real estate, or if a foreign investor intends to acquire real estate in the course of an asset deal, such a transaction may be subject to regulations with respect to acquisition of land by foreigners (*Ausländergrundverkehrsgesetze*). There are nine of these laws (one for each of the nine provinces of Austria) which differ from each other and therefore need to be assessed in detail at the provincial level if a transaction includes real estate. If the filings required by such laws are not made, the legal transaction is invalid. The acquisition of land also requires an entry in the respective land registry. The land register will scrutinize the case at its own initiative and will not make the respective entry if no approval for the acquisition of the real property by the competent authority (*Ausländergrundverkehrsbehörde*) can be presented.

In all cases, whether the acquirer is a foreign or domestic investor, an anti-trust assessment needs to be made to determine whether a filing is required.

9. Does a foreign investor need approval to acquire shares in a public company on a domestic stock market? What about acquiring shares of a public company in a direct (private) transaction from another shareholder?

As concerns the acquisition of shares in a public company on the domestic Austrian stock market as well as the acquisition of shares in the course of a private transaction, reference is made to section 17, which deals with the necessary FDI approval in case the target company conducts its business in a field protected by the Austrian Investment Control Act. Austrian law in this respect does not differentiate between the acquisition of shares in a public or in a private company. Reference is also made to section 8 with regard to the indirect acquisition of property of land by foreigners, which can be, depending on the provincial regulation, subject to prior approval.

10. Is there a requirement for a mandatory tender offer if an investor acquired a certain percentage of shares of a public company?

The Austrian Takeover Act stipulates that a mandatory tender offer is to be made if a direct or indirect controlling interest is acquired in a listed entity. A direct controlling interest exists if the participation in a target company conveys more than 30 % of the permanent voting rights in the company. Participation of entities acting in concert need to be added together. This threshold can be lowered to 20 % in the Articles of Association of the company. There are, however, certain exceptions under which no tender offer needs to be made, *inter alia*, if there is a bigger shareholder or a bigger group of shareholders acting in concert. Further, a mandatory offer needs to be made if a shareholder, or a group of shareholders acting in concert, who already holds a controlling participation but less than the majority of the permanent voting rights in the company, acquires shares within a calendar year which provide for at least an additional 3 % of the voting rights, compared to the volume held on the last day of the preceding calendar year (creeping-In). Previous sales within the respective calendar year can be off-set against later acquisitions.

11. What is the approval process for building a new facility in the country (in a greenfield or brownfield project)?

Greenfield and brownfield projects as well as any other commercial facilities usually have to be approved under the Austrian Trade Law Act (*Gewerbeordnung*) and a corresponding operation permit needs to be issued. This also applies to changes to existing approved facilities. The Trade Law Act distinguishes between different types of procedures depending on the nuisance or hazard potential of the facility. In general, the following types of procedures can be applied: (i) ordinary procedure for ordinary facilities; (ii) simplified procedure for minor facilities; (iii) IPPC procedure for certain particularly environmentally hazardous facilities; and (iv) Seveso provisions for hazardous facilities. The detailed procedure needs to be assessed on a case by case basis, whereby any stakeholder will have the opportunity to make use of their procedural rights. Oral hearings are not generally mandatory; however, oral hearings are common concerning larger projects. In addition, a building permit will be needed. Other permits may be needed as well, which will have to be reviewed on a case-by-case basis. Especially permits regarding compliance with environmental protection regulations can be difficult to get and involve complex procedures as Austrian environmental protection laws are rather strict.

12. Can an investor do a transaction in the country in any currency or only in domestic currency? a) Is there an approval requirement (e.g. through Central Bank or another governmental agency) to use foreign currency in the country to pay: i. in an acquisition, or, ii. to pay to contractors, or, iii. to pay salaries of employees? b) Is there a limit on the amount of foreign currency in any transaction or series of related transactions? i. Is there an approval requirement and a limit on how much foreign currency a foreign investor can transfer into the country? ii. Is there an approval requirement and a limit on how much domestic currency a foreign investor can buy in the country? iii. Can an investor buy domestic currency outside of the country and transfer it into the country to pay for an acquisition or to third parties for goods or services or to pay salaries of

employees?

As concerns contractual payment obligations due to an acquisition of an investor, freedom of contract prevails, which means that, if agreed upon, such payments can be made in any currency. This also applies in relation to contractors. Otherwise the legal currency in Austria is the Euro.

Concerning the payment of employees, the collective labor agreements provide a minimum salary in a respective EUR amount. Therefore, employees cannot be forced to accept payments in a foreign currency. No general limit exists on the amount of foreign currency that can be transferred in the course of a transaction. Investors are also free to obtain domestic currency outside of Austria and use it to pay salaries, contractors or conclude transactions.

A limiting factor with respect to investors is that banks as well as most advisors, such as lawyers and tax advisors, are obliged to conduct KYC checks on a case by case basis with the aim to assess whether any intended transaction of the investor has a tendency towards money laundering. If a transaction has such a tendency, advisors are obliged to scrutinize the investor with regard to origin of funds and the UBO of the respective party in case a legal entity is conducting the transaction.

Current sanction regimes also need to be taken into account. As a member of the EU, Austria and companies and persons operating within Austria are directly impacted in particular by the EU Russian sanctions packages that have been adopted since the Russian invasion of Ukraine. The EU Russian sanctions can prohibit dealings with, and payments to, listed Russian entities and persons.

Additionally, it should be noted that with respect to commercial business transactions the Austrian Trade Law Act (*Gewerbeordnung 1994*) stipulates that the identity of the customer must also be verified if the payment obligation for certain commercial transactions is made via cash deposit and exceeds the amount of EUR 10,000.

13. Are there approval requirements for a foreign investor for transferring domestic currency or foreign currency out of the country? Whose approval is required? How long does it take to get the approval? Are there limitations on the amount of foreign or domestic currency that can be

transferred out of the country? Is the approval required for each transfer or can it be granted for all future transfers?

There are no approval requirements in place in Austria with regard to transfer of any kind of currency out of Austria. This is the case for the transfer of currency via bank transactions.

If any currency in the amount of EUR 10,000 or EUR 10,000 equivalent is transferred to Austria from EU third party states or if such currency is to be transferred out of Austria to EU third party states, such currency must be registered with the customs office. This applies to cash and cash equivalents that are carried personally. With respect to transferring EUR 10,000 or EUR 10,000 equivalent in cash between the EU member states, such currency must only be verbally declared upon request of customs authorities.

Concerning all other bank transactions the general principle is that the local Austrian entities, e.g. commercial businesses, banks or legal or tax advisors are obliged by law to conduct KYC checks and assess on a case by case basis if a transaction that is to be conducted has a tendency towards money laundering. If this is the case, the respective entity must scrutinize the process of the transaction in more detail and under certain circumstances report the same to the national supervisory authority.

14. Is there a tax or duty on foreign currency conversion?

Austrian tax law does not provide for the collection of taxes concerning the conversion of currency.

15. Is there a tax or duty on bringing foreign or domestic currency into the country?

Austrian tax law does not provide for collection of taxes on the basis that any person brings foreign or domestic currency into Austria. However, following regulations on the prevention of money laundering and financing terrorism, any person that enters into Austria from an EU third country or exits Austria to an EU third country is obliged to register cash if the currency exceeds the amount of EUR 10,000 or EUR 10,000 equivalent.

16. Is there a difference in tax treatment between acquisition of assets or shares

(e.g. a stamp duty)?

The treatment of asset deals and share deals under Austrian law is quite complex and can have differing tax consequences at the buyer as well as at the seller level. In addition, Austrian tax law provides that in certain cases, irrespective of whether specific transaction requirements are fulfilled, a stamp duty falls due. This stamp duty is generally set within the range of 0.8 and 2 % of the value of the respective transaction which is subject of the contract. However, the mere transfer of assets of a company or shares in a company as such is not subject to stamp duty. It should be noted, however, that for example the assignment of claims via a written agreement in the course of an asset deal and the entering into of suretyships (e.g., where a parent company stands in for obligations of a subsidiary) may trigger Austrian stamp duty (see below).

Austrian stamp duty falls due if certain types of contracts, such as lease contracts and commercial rental contracts, assignments and surety contracts (*Bürgschaften*) are concluded, amended or renewed in writing.

However, from a practical point of view this has become much less of an issue in recent years for asset deals since Section 38 of the Austrian Commercial Code provides that in case of asset deals concerning a business all rights and obligations connected to such business are transferred by operation of law, rendering the stamp duty regime inapplicable.

In any event, it is highly advisable to carefully check the application of the stamp duty regime prior to any asset or share deal since the stamp duty regime follows highly formalistic rules (see also Question 17).

17. When is a stamp duty required to be paid?

Briefly speaking, under the Austrian Stamp Duty Act certain legal transactions are subject to stamp duty if a written contract (document) is set up on them in Austria (irrespective of the nationality of the parties) or a foreign document which would trigger stamp duty in Austria is brought into Austria. If the documenting of the legal transaction is drawn up in Austria (domestic deed), in case of bilateral legal transactions the stamp duty is incurred when the deed is signed by both parties to the contract or, if the deed is only signed by one party to the contract, when it is transmitted to the other party. In addition, also written agreements concluded abroad trigger stamp duty if (i) both contracting parties qualify as "fee residents" in Austria, and (ii) the legal

transaction relates to an item / asset located in Austria or (iii) one party is entitled or obliged to perform in Austria on the basis of the legal transaction.

However, not all legal transactions trigger stamp duty. The most important legal transactions that may trigger stamp duty are assignment agreements (2 % of the purchase price for the assigned claim), surety agreements (1 % of the value of the secured liability), lease agreements (1 % of the triple annual lease in case of contracts with an indefinite duration and in case of leases with a definite duration 1 % of the lease for the complete term, but not for more than 18 years) and settlement agreements concerning disputed claims (1 % of the settled amount for matters already before a court and 2% for out-of-court settlements).

In any event, stamp duty is a highly sensitive issue that needs to be dealt with on a case by case basis. In some instances, it is possible to legally avoid the stamp duty being imposed if the document is executed abroad and neither an original nor a notarized copy of the document is brought into Austria. One of the difficulties presented in practice is that for such documents executed abroad, any future correspondence into or out of Austria that refers to such document may trigger stamp duty (*Ersatzbeurkundung*).

18. Are shares in private domestic companies easily transferable? Can the shares be held outside of the home jurisdiction? What approval does a foreign investor need to transfer shares to another foreign or domestic shareholder? Are changes in shareholding publicly reported or publicly available?

Shares in a stock corporation or a company with limited liability can be held outside the home jurisdiction. There are no specific formal requirements for a transfer of shares, with the exception of shares in Austrian limited liability companies, which requires that the parties draw up a notarial deed and execute the transfer document before a notary public (which now can also be done via videoconferencing).

With respect to companies with limited liability the change of shareholders must be registered in the respective commercial register of the target company. Who the shareholders of a company with limited liability are is public knowledge. If a stock corporation has only one shareholder, such shareholder also needs to be entered into the commercial register.

Finally, also the partners of a partnership need to be

entered into the commercial register and updated. No further details concerning the scope of the transaction must be submitted.

Only the direct shareholdings need to be registered. This means that shareholdings that are subject to trust constructions only reveal the direct shareholder but not the trustor.

Further, reference is made to section 7 with respect to the registration of UBOs. Changes in UBOs need to be registered and an annual update needs to be filed, even if no change has taken place. As regards mandatory FDI filings, we refer to section 19. Otherwise, the transfer of shares from Austrian to foreign shareholders and vice-versa is not limited.

19. Is there a mandatory FDI filing? With which agency is it required to be made? How long does it take to obtain an FDI approval? Under what circumstances is the mandatory FDI filing required to be made? If a mandatory filing is not required, can a transaction be reviewed by a governmental authority and be blocked? If a transaction is outside of the home jurisdiction (e.g. a global transaction where shares of a foreign incorporated parent company are being bought by another foreign company, but the parent company that's been acquired has a subsidiary in your jurisdiction), could such a transaction trigger a mandatory FDI filing in your jurisdiction? Can a governmental authority in such a transaction prohibit the indirect transfer of control of the subsidiary?

The Austrian Investment Control Act provides for a mandatory FDI filing under specific circumstances. According to the Austrian Investment Control Act, a "foreign direct investment" is subject to the approval of the Federal Minister for Digital and Economic Affairs (i) if the target company is active in one of the sensitive or systemically relevant areas listed in the Annex to the Austrian Investment Control Act and (ii) certain voting rights are reached or exceeded or a controlling influence is otherwise acquired or a controlling influence over these parts of the company is acquired through the acquisition of significant assets.

"Direct investments" are the direct or indirect acquisition of an Austrian company (registered office and head office in Austria), voting rights, a controlling

influence or significant assets. The "direct investment" becomes "foreign" if at least one of the acquirers involved is a third-country national (no EU citizenship or citizenship of an EEA state or Switzerland or registered office or head office outside the EU, the EEA and Switzerland). The extension of the scope of application to indirect acquisitions therefore also covers acquisitions by a company based in the EU / EEA / Switzerland that is controlled by a third-country national.

The Austrian Investment Control Act lists defense goods and technologies, the operation of critical energy infrastructure and critical digital infrastructure, water, the operation of systems to ensure data sovereignty and – due to COVID-19 – research and development in the areas of pharmaceuticals, vaccines, medical devices and personal protective equipment as particularly sensitive areas. The term "other areas" covers areas in which there may be a threat to security or public order, including crisis management and services of general interest, whereby this exemplary list includes critical infrastructures, critical technologies, the security of supply of critical resources, access to or control of sensitive data and the freedom and plurality of media.

Legal transactions that require an FDI approval are deemed to have been concluded subject to the condition precedent that the corresponding approval is granted. In this respect, the Austrian legislator has chosen an approach for example from the merger control regime by not ordering the invalidity of the agreement per se as a sanction if parts of the agreement contradict the prohibition on implementation. Moreover, an implementing of the transaction prior to approval constitutes an offence punishable by imprisonment. Therefore, if an FDI approval has not been obtained, but would have been deemed necessary, the transaction is not null and void; the violating parties, however, may have to take responsibility under criminal law.

As concerns duration of FDI proceedings, an administrative order can be obtained in less than 3 months.

20. What are typical exit transactions for foreign companies?

The typical exit strategy is not dependent on whether a company is a foreign or domestic company. Common exit strategies include the sale of a company, a spin-off of the company, a split-off of parts of the company, a management buy-out, a management buy-in and an IPO.

21. Do private companies prefer to pursue

an IPO? i. on a domestic stock market, or ii. on a foreign stock market? iii. If foreign, which one?

In the Austrian M&A market, due to its overall relatively small market size IPO's are not a common corporate instrument to raise new funds. Currently Austria has 75 listed domestic stock corporations and 732 listed foreign corporations. Annually only a handful of companies pursue an IPO, whereby domestic companies as well as foreign companies seek for a listing at the domestic stock exchange. In case of foreign companies, these companies generally have a secondary listing in Austria and a main listing at one or more other countries.

22. Do M&A/Investment/JV agreements typically provide for dispute resolution in domestic courts or through international arbitration?

Whether M&A / Investment / JV agreements provide for dispute resolution in domestic courts or through international arbitration is generally dependent on who the parties are to the respective agreements. The practice shows that transactions that are concluded between local Austrian entities and especially smaller entities, the parties tend to opt for the local Austrian courts to have jurisdiction over the transaction. However, as soon as larger entities or foreign entities are involved in a transaction, the tendency is for arbitration tribunals to be agreed between the parties.

23. How long does a typical contract dispute case take in domestic courts for a final resolution?

As concerns local Austrian court proceedings, such proceedings generally are conducted in two or three court instances. In the first instance court the main focus lies on obtaining the facts of the case necessary for reaching a verdict, the second instance acts as an appeal body and scrutinizes the legal assessment, as well as, depending on the specific case, the facts of the case. If the legal assessment in question refers to a point of law of considerable importance, an appeal to the Austrian Supreme Court can be admissible. The duration of proceedings in the first instance generally lasts between 9 months to 1.5 years. The duration of appeal proceedings can usually be finished within 6 to 12

months.

24. Are domestic courts reliable in enforcing foreign investors rights under agreements and under the law?

Yes, they are. There is no bias towards domestic claimants or defendants. There are also specific commercial courts which have substantial experience in deciding commercial disputes.

25. Are there instances of abuse of foreign investors? How are cases of investor abuse handled?

No, there are no such cases.

26. Are international arbitral awards recognized and enforced in your country?

Foreign arbitral awards can be enforced in Austria on the basis of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, of which Austria is a party.

27. Are there foreign investment protection treaties in place between your country and major other countries?

The Republic of Austria currently has bilateral investment protection treaties with 62 countries in place that are not EU-member states. In this context the "Achmea" decision of the European Court of Justice needs to be mentioned, on the basis of which arbitration clauses in international investment protection agreements between EU member states are not compatible with EU law. In light of the ruling, Austria, together with other EU member states, has committed to terminating all bilateral investment protection agreements with EU member states. There are, therefore, no EU member states among the 62 countries with which Austria has bilateral investment protection agreements in place. Major countries with which Austria has bilateral investment protection agreements in place are, inter alia, China, United Arab Emirates and Russia (<https://www.bmaw.gv.at/Themen/International/Handels-und-Investitionspolitik/Investitionspolitik/BilateraleInvestitionsschutzabkommen-Laender.html>).

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