

M&A in Poland. Legal aspects

Times are changing fast. Not so long ago carrying out a due diligence before acquiring a company in Poland gave advisors plenty to worry about. How fast can one get excerpts from a property ledger and can one trust them? Of what value are the presented balance sheets and do the presented figures reflect the actual state the company is in?

Today the situation is much better and is no different from the European standards. An excerpt from the register of companies with the basic data about the company are given right-away. One can receive them in any registration court.

Thanks to the digitalisation of most of property ledgers the waiting period for copy containing the data about the real-estate has shortened from several weeks to just the time needed to print it and put the office's stamp. Only malcontents claim that the old copies were less complicated and easier to read.

Acquiring a company can take place as a share or assets deal. Capital companies are the limited liability company and the joint-stock company. Partnerships are registered partnership, professional partnership, limited partnership and recently introduced to the legal system, but hardly known, limited joint-stock partnership.

Until recently the biggest obstacle when acquiring a company in Poland by foreigners was the acquisition of a real-estate that went with it. It required a special permission of the Minister of Internal Affairs and Administration. These hardships are now a thing of the past.

When buying a company in Poland one should not forget about the regulations meant to ensure competitiveness on the market (anti-monopoly regulations). All transactions leading to concentration of the capital should be reported by the President of the Office of Competition and Consumer Protection (UOKiK) if the joint annual turnover of the companies taking part in the concentration exceeds euro



50 million. In case of large international transactions the European Commission is competent to allow a merger, with the anti-monopoly law taken into account, to go through.

Also the privatisation issue looks completely different now. The vast majority of the companies previously owned by the State Treasury are today the backbone of private, free market economy. The only companies still awaiting privatisation are the large enterprises from the energy sector, telecommunications and perhaps also mining industry. The privatisation process in Poland has its own specific conditions. One of them is the need to sign a so-called social package agreement with the representatives of the workers. Reconciling different interests is a big challenge for an investor.

The huge leap that took place in Poland in terms of freedom of capital movement means that from a legal point of view the current situation can be described as business as usual.

*Joachim Hilla
legal advisor, Warsaw
Rechtsanwalt,
Frankfurt n./Menem,
specializes in assisting German investors in Poland and Polish investors in Germany
www.hilla.pl*