

# NORDIC DEFENCE & CYBERSECURITY NEWSLETTER



# Ownership Changes under the Danish War Materiel Act

Key Practical Distinctions from FDI Screening



# Introduction

Certain investments and transactions involving Danish defence-related companies are subject to a special regulatory ownership approval regime under the Danish War Materiel Act (Krigsmaterielloven).

Where an ownership change falls within the War Materiel Act, this regime operates as a *lex specialis* in the Danish screening landscape. The generally applicable Danish Investment Screening Act does not apply where other legislation provides for screening or intervention mechanisms based on national security considerations. As a result, ownership changes in companies covered by the War Materiel Act follow a distinct approval track administered by the Danish Ministry of Justice.



In practice, this distinction is critical. Ownership change approvals under the War Materiel Act are relatively rare, there is limited publicly available administrative practice, and the process differs materially from FDI screening and merger control. Of particular practical relevance is that the Act also captures indirect ownership and other forms of decisive influence, which means that complex shareholder arrangements and private equity ownership structures often become a central focus of the authorities' assessment.

The purpose of this newsletter is to highlight the key practical distinctions, process-related considerations and deal implications that arise when the War Materiel Act is engaged - in particular the factors that investors, sellers and management teams should take into account when assessing deal feasibility, transaction timing, execution risk, regulatory uncertainty and the consequences of implementing ownership changes without the required approval.



# The War Materiel Act - What It Means for Ownership and Deal Control

## **When Does the Act Become Relevant for a Transaction?**

The War Materiel Act applies to companies engaged in the manufacture of war materiel as defined under Danish law, including components and parts designed for exclusively military use. The Act is administered by the Danish Ministry of Justice, which is the competent authority for approvals relating to ownership and control changes.

## **Section 3 - When Ownership and Governance Changes Trigger Approval**

Section 3 of the Act requires prior approval from the Ministry of Justice if changes in ownership or management result in increased foreign influence. The provision applies not only to direct ownership but also to situations where foreign parties obtain decisive influence through voting rights, governance rights or other arrangements.



## Section 4 - How the Authorities Assess Risk

Under Section 4, approval must be granted unless foreign policy or national security considerations speak against it. The Ministry of Justice typically involves other authorities, including defence and security agencies, as part of its assessment.

## Why This Matters for Transaction Planning and Execution

Unlike FDI screening or merger control, there is no standard application form, no statutory timelines and limited guidance based on prior cases. Pre-notification dialogue with the authorities is often advisable, and substantive review is the norm.

## Practical Considerations for Investors, Sellers and Management

Transactions require early and detailed understanding of the target's activities, the buyer's ownership structure and the transaction mechanics. Authority dialogue and follow-up questions should be expected.

## Approval Risk and Deal Certainty

Approvals under the Act are discretionary. While many applications are approved, no outcome can be guaranteed, and conditions may be imposed.



# Key Takeaways for Market Participants

## **Consequences of Non-Compliance**

Failure to obtain the required approval may result in criminal sanctions, including fines and imprisonment. Approvals may also be withdrawn, and non-compliance can create significant deal risk, including delays, conditional approvals or the need to unwind ownership structures post-closing.



# Our Comments

For investors, sellers and management teams, the War Materiel Act introduces a regulatory dimension that directly affects transaction feasibility, timing and execution risk. Early identification and proactive handling of potential War Materiel Act issues can materially reduce uncertainty and help avoid adverse outcomes later in the transaction process.

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