

Screening of foreign investments in the Union

2024/0017(COD) - 24/01/2024 - Legislative proposal

PURPOSE: improve the protection of EU security and public order by proposing improved screening of foreign investment into the EU.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EU) 2019/452 of the European Parliament and of the Council establishing a framework for the screening of foreign direct investments (FDIs) into the Union was adopted in 2019 and entered into application on 11 October 2020. It responded to growing concerns about certain foreign investors seeking to acquire control of EU firms that provide critical technologies, infrastructure or inputs, or hold sensitive information, and whose activities are critical for security or public order at EU level. The aim of the Regulation was to help identify and address security or public order risks related to FDIs that affect at least two Member States or the EU as a whole, because the high degree of integration of the internal market means that an FDI in an EU company may create a risk beyond the borders of the Member State hosting the FDI.

Since the adoption of the Regulation, the **issue of security and public order has grown in importance**. The COVID-19 pandemic, Russia's war of aggression against Ukraine and other geopolitical tensions have underlined the need to be able to **identify risks to, and better protect EU critical assets from, certain investments**. This has also contributed to the significant increase in the number of Member States adopting a **national screening mechanism**, and in the expansion by some Member States in the number of sectors subject to screening. However, a significant share of FDIs in the EU still goes to Member States that **do not have a screening mechanism** and this leaves vulnerabilities because potentially critical FDIs remain undetected.

CONTENT: the proposed regulation revises and improves the cooperation mechanism between the Member States and the Commission created by Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments (FDIs) into the Union. The new rules aim to **improve the EU's ability to detect foreign investments likely to negatively affect security or public order**.

The main provisions of the proposal are as follows:

National screening mechanisms

The proposal contains rules for national screening mechanisms. Member States are required to set up and maintain a screening mechanism that complies with the requirements of the proposed regulation and to notify this mechanism to the Commission. Based on these notifications, the Commission is required to publish a list of national screening mechanisms. The mechanisms are required to cover at least (i) investments in EU companies participating in projects or programmes of EU interest; and (ii) investments in EU companies active in areas of particular importance for the security or public order interests of the EU.

Cooperation mechanism

Provisions are set out for a cooperation mechanism allowing Member States and the Commission to exchange information and suggest measures if a foreign investment is likely to negatively affect security or public order in more than one Member State, or through a project or programme of Union interest.

The Commission is allowed to issue an opinion to the Member State where the foreign investment takes place if it considers that such a foreign investment is likely to negatively affect the security or public order of more than one Member State, or projects or programmes of Union interest on grounds of security or public order.

The proposal also provides rules for Member States and the Commission for the determination of a foreign investment's likely impact on security or public order and for Member States' screening decisions.

Transparency

To ensure the transparency of screening mechanisms and the EU cooperation on foreign investment screening, the proposal requires Member States to **report annually** to the public about their screening activities and screening decisions by publishing aggregated and anonymised information. The Commission is also required to publish an annual report about the implementation of the regulation.

Lastly, the proposal includes annexes that provide a list of projects and programmes of Union interest as well as the technologies, assets, facilities, equipment, networks, systems, services and economic activities of particular importance for the security or public order interests of the Union.

Budgetary implications

In order to effectively achieve the objectives of this initiative, it is necessary to finance a number of actions at Commission level. The annual human resources expenditure will amount to approximately EUR 5.162 million per year, which is intended to provide for a total number of 29 officials in the Commission. Other administrative expenses are related to the reimbursement of Member States' travel costs to the meetings of the expert group and committee. These costs are projected to amount to EUR 0.032 million per year. Operational expenditure, which will be used to finance the necessary IT infrastructure to support the direct cooperation between the Commission and Member States through secure channels of communication will reach approximately EUR 0.25-0.29 million per year. The Commission intends to launch an external study with a budget of EUR 0.25 million to support its assessment of Member States' compliance after the end of the transitional period. Lastly, the Commission will consider launching a second study to support the 5-year evaluation of the proposed regulation by the Commission.