



Draft opinion of the European Committee of the Regions – Proposal for a Regulation on the screening of foreign investments in the EU

(C/2025/290)

Rapporteur:	Pehr GRANFALK (SE/EPP), Member of Solna Municipal Council
Reference document:	Proposal for a Regulation on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council (COM(2024) 23 final)

I. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

COM(2024) 23 final – Recital 9

Text proposed by the European Commission	CoR amendment
To ensure a consistent approach to foreign investment screening across the Union, all Member States should be required to screen foreign investments on the grounds of security or public order. Therefore, the core elements of national screening mechanisms should be harmonised. That minimum harmonisation includes the scope of investments to be screened, the screening procedure's essential features, and the interaction between the national mechanism and the Union cooperation mechanism. In addition, Member States should also be able to extend the scope of their national screening mechanism to include other types of foreign investments, foreign investments in other sectors, additional Union targets or economic activities that the relevant Member State considers critical for its security or public order. When they do so, such screening should also comply with the provisions of this Regulation.	To ensure a consistent approach to foreign investment screening across the Union, all Member States should be required to screen foreign investments on the grounds of security or public order. Therefore, the core elements of national screening mechanisms should be harmonised. That minimum harmonisation includes the scope of investments to be screened, the screening procedure's essential features, and the interaction between the national mechanism and the Union cooperation mechanism. In addition, Member States should also be able to extend the scope of their national screening mechanism to include other types of foreign investments, foreign investments in other sectors, additional Union targets or economic activities that the relevant Member State considers critical for its security or public order. Member States should put in place a mechanism aimed at whenever possible consulting or alternatively informing the regional authorities concerned by the screening of a foreign investment. When they do so, such screening should also comply with the provisions of this Regulation.

Reason

The proposal overlooks the economic importance of foreign investment for regions and the role played by regions both in attracting foreign investment and in understanding their economic ramifications. Member States should therefore be encouraged to put in place a mechanism aimed at consulting – or at least informing – the regional authorities concerned by the screening of a foreign investment.

Amendment 2

COM(2024) 23 final – Recital 22

Text proposed by the European Commission	CoR amendment
To ensure that the likely effect of a foreign investments on the security or public order of one or more Member States is adequately identified, Member States should be able to provide comments to a Member State in which a foreign investment is planned or has been completed even if that Member State is not screening that foreign investment or if the foreign investment is screened but not notified to the cooperation mechanism. Requests for information, replies and comments from Member States should be notified to the Commission simultaneously.	To ensure that the likely effect of a foreign investments on the security or public order of one or more Member States is adequately identified (particularly in relation to investments in border regions), Member States should be able to provide comments to a Member State in which a foreign investment is planned or has been completed even if that Member State is not screening that foreign investment or if the foreign investment is screened but not notified to the cooperation mechanism. Requests for information, replies and comments from Member States should, be notified to the Commission simultaneously.

Reason

It is important to highlight that in some instances, the effects of foreign investments are more likely to be of relevance for another Member State if the investment is done close to its border.

Amendment 3

COM(2024) 23 final – Article 4(2)

Text proposed by the European Commission	CoR amendment
2. Member States shall ensure that their screening mechanisms comply with the following requirements: (a) adequate procedures shall be provided for the screening authority to determine whether it has jurisdiction over a foreign investment filed for authorisation and to carry out an initial review followed by, where necessary, an in-depth investigation to determine whether that foreign investment is likely to negatively affect security or public order. The purpose of the in-depth investigation shall be, in particular, to determine whether a screening decision as referred to in Article 14(1) is appropriate and to determine its content. (b) the screening authority shall monitor and ensure compliance with the screening mechanism and screening decisions. In particular, it shall put in place adequate procedures to identify and prevent circumvention of the screening mechanism and screening decisions;	2. Member States shall ensure that their screening mechanisms comply with the following requirements: (a) adequate procedures shall be provided for the screening authority to determine whether it has jurisdiction over a foreign investment filed for authorisation and to carry out an initial review followed by, where necessary, an in-depth investigation to determine whether that foreign investment is likely to negatively affect security or public order. The purpose of the in-depth investigation shall be, in particular, to determine whether a screening decision as referred to in Article 14(1) is appropriate and to determine its content. (b) the screening authority shall monitor and ensure compliance with the screening mechanism and screening decisions. In particular, it shall put in place adequate procedures to identify and prevent circumvention of the screening mechanism and screening decisions. Such a procedure may also include mechanisms aimed at consulting the regional authorities concerned by the foreign investment;

Reason

The proposal overlooks the economic importance of foreign investment for regions and the role played by regions both in attracting foreign investment and in understanding their economic ramifications. Member States should therefore be encouraged to put in place a mechanism aimed at consulting – or at least informing – the regional authorities concerned by the screening of a foreign investment.

Amendment 4

COM(2024) 23 final – Article 16

Text proposed by the European Commission	CoR amendment
1. By 31 March of each year beginning in [add date: first year of application], Member States shall report to the Commission, on a confidential basis, on their activities under their screening mechanism and under the cooperation mechanism for the preceding calendar year. This report shall contain information on: (a) the number of foreign investments screened after a request for authorisation and after an own initiative procedure; (b) the number of foreign investments approved with and without conditions; (c) the number of foreign investments prohibited, the number of foreign investments withdrawn; (d) the number of foreign investments notified to the cooperation mechanism, and the number of comments issued by the respective Member State; (e) information on the origin of the foreign investors and the sector of activity of the targets of the foreign investments screened, authorised or prohibited; (f) an aggregate presentation of risks and vulnerabilities identified in the foreign investments that led to a screening decision;	1. By 31 March of each year beginning in [add date: first year of application], Member States shall report to the Commission, on a confidential basis, on their activities under their screening mechanism and under the cooperation mechanism for the preceding calendar year. This report shall contain information on: (a) the number of foreign investments screened after a request for authorisation and after an own initiative procedure; (b) the number of foreign investments approved with and without conditions; (c) the number of foreign investments prohibited, the number of foreign investments withdrawn; (d) the number of foreign investments notified to the cooperation mechanism, and the number of comments issued by the respective Member State; (e) information on the origin of the foreign investors and the sector of activity of the targets of the foreign investments screened, authorised or prohibited; (f) an aggregate presentation of risks and vulnerabilities identified in the foreign investments that led to a screening decision; (g) the extent to which the Member State has consulted regional authorities (with the respective legal competences) concerned by a screening decision;

Reason

The proposal overlooks the economic importance of foreign investment for regions and the role played by regions both in attracting foreign investment and in understanding their economic ramifications. Member States should therefore be encouraged to put in place a mechanism aimed at consulting – or at least informing – the regional authorities concerned by the screening of a foreign investment.

Amendment 5

COM(2024) 23 final – Article 18

Text proposed by the European Commission	CoR amendment
1. The Commission shall evaluate the functioning and effectiveness of this Regulation 5 years after the date of application of this Regulation and every 5 years thereafter and present a report to the European Parliament and to the Council. Member States shall be involved in this exercise and, if necessary, provide the Commission with additional information for the preparation of that report.	1. The Commission shall evaluate the functioning and effectiveness of this Regulation 5 years after the date of application of this Regulation and every 5 years thereafter and present a report to the European Parliament and to the Council. Member States shall be involved in this exercise and provide the Commission with additional information, including on the extent to which Member States have involved regional entities with the respective legal competences in the screening, for the preparation of that report.

Text proposed by the European Commission	CoR amendment
2. Where the report from the Commission recommends amendments to this Regulation, it may be accompanied by a legislative proposal.	2. Where the report from the Commission recommends amendments to this Regulation, it may be accompanied by a legislative proposal supported by an impact assessment .

Reason

The extent to which Member States have involved regional entities in the screening and what effect that has had (currently this in only done in Austria and Belgium) would be useful information when evaluating the Regulation.

Both the current Regulation and the revised proposal were presented without a prior impact assessment. It would be unfortunate if a further revision were also presented without an impact assessment.

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS (CoR),

1. Welcomes the European Commission's proposed revision of the regulation on the screening of foreign direct investment (FDI), recognising the need to adapt to geopolitical situations and address issues of security and public order that have grown in importance and complexity over the past years;

2. Notes that the EU Treaties define common commercial policy as contributing to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on FDI, and the lowering of customs and other barriers;

3. Notes that the OECD's FDI Regulatory Restrictiveness Index states that the EU has one of the world's most open investment regions, and that currently over 35 % of EU assets are owned by non-EU investors. Critically assesses that foreign investment increasingly focuses on critical infrastructure and advanced technology sectors, highlighting the need for screening of such investments;

4. Strongly regrets that the voice of regions and cities is not reflected in the updated proposal. The concerns of local and regional authorities are often, as a matter of course, aligned with those of the Member States. The high degree of integration of the internal market means that an FDI in an EU company may create a risk in not only other Member States but also specific regions within or beyond the borders of the Member State hosting the FDI;

5. Highlights also the concerns and findings – and in particular the recommendations – of the European Court of Auditors (ECA) in their special report on the topic ⁽¹⁾, while taking into account the European Commission's replies thereto ⁽²⁾;

6. Highlights the importance of recognising the growing interdependence of sectors and the emergence of new threats, such as climate change and pandemics, when designing protective frameworks for critical infrastructure. Underscores the necessity of conducting comprehensive risk assessments and implementing robust responses;

7. Emphasises that critical infrastructure includes all systems vital to maintaining key economic and social functions, such as healthcare, food supply, security, transport, energy, information networks and financial services. Stresses the urgent need to enhance protective measures for these systems against both natural and human-induced threats, including terrorism, cyber-attacks, disinformation campaigns, and control by hostile foreign entities.

⁽¹⁾ Special report 27/2023: Screening foreign direct investments in the EU – First steps taken, but significant limitations remain in addressing security and public order risks effectively (OJ C, C/2023/1457, 7.12.2023, ELI: <http://data.europa.eu/eli/C/2023/1457/oj>).

⁽²⁾ Replies of the European Commission to the European Court of Auditors' special report: Screening foreign direct investments in the EU – First steps taken, but significant limitations remain in addressing security and public-order risks effectively.

Harmonisation

8. Welcomes the revised Regulation's aim to improve the effectiveness and efficiency of inter-Member State cooperation and inter-Member State and Commission cooperation by promoting a 'minimum harmonisation' of concepts and procedures, as well as the establishment of a more precise procedure and deadlines for the EU cooperation mechanism;

9. Is concerned by the findings from the aforementioned ECA report that the Regulation does not have clear provisions to ensure that concepts are interpreted consistently and that comparable rules are applied to comparable situations;

10. Supports as a baseline the objective of harmonising core elements of national screening mechanisms. This harmonised core should include the scope of investments to be screened, the screening procedure's essential features, and the interaction between the national mechanism and the Union cooperation mechanism. To achieve this there must be clear definitions of the elements and concepts relating to FDI and FDI screening, and these should be compatible with existing jurisprudence;

11. Calls for efforts for cross-border international cooperation between Member States and the Commission on the one hand, and third-country authorities on the other;

Evaluation

12. Welcomes the fact that the Regulation will be evaluated and reviewed five years after its entry into force. However, regrets that this important proposal was presented without a supporting impact assessment, undermining best practices set out for better regulation. Underlines that the current regulation was also introduced without an impact assessment, which the European Commission considered an exceptional case. Highlights the fact that an impact assessment preceding the proposal would have ensured that inter-institutional discussions were based on concrete evidence;

13. Calls for the updated Regulation to specify information to be included within the annual report. This would allow for a year-on-year analysis of the efficiency and effectiveness of FDI screening and EU-level cooperation. Moreover, asks that the European Commission present its annual report to the CoR;

Administrative burden

14. Notes that the third annual report on FDI states that Member States' use of the screening mechanism continued to grow in 2022, favoured by a rapid Commission assessment procedure for FDI transactions, with 87 % completed within 15 days;

15. Highlights the need to operate under short business-friendly deadlines strong confidentiality requirements and to minimise the administrative burden to ensure Europe remains one of the world's most open investment environments for FDI;

16. Underlines, given the potential importance of the Regulation, that the European Commission and Member States ensure that sufficient resources are allotted to effective implementation;

Local and regional context

17. Regrets that FDI is not spread equally across Europe's regions. An ESPON study ⁽³⁾ shows that foreign-owned firms account for as much as 11 % of production in the EU, but that it is concentrated to urban, capital metropolitan regions and more developed regions;

⁽³⁾ The World in Europe, global FDI flows towards Europe, 2018.

18. Draws attention to a study by the Economic and Business Review (EBR) ⁽⁴⁾, which finds that FDI is an important determinant of regional growth, especially for less developed and peripheral regions;
19. Encourages the Commission to include a CoR representative in the Expert Working Group on the screening of FDI into the EU, to ensure a formal recognition of the views of local and regional authorities;
20. Calls for the Commission to develop a best practice handbook for the establishment of minimum harmonisation standards in Member States' screening agencies. Recommends that the handbook state that local and regional authorities are to be consulted whenever possible or be informed if FDI in their region is being screened, and that this be communicated to local and regional authorities (LRAs) if there is a delay in the investment of FDI in their region due to the screening process.

Brussels, 20 November 2024.

The President
of the European Committee of the Regions
Vasco ALVES CORDEIRO

⁽⁴⁾ The Impact of FDI and Financial Depth on EU Regional Growth: Income and Spatial Heterogeneity, September 2023.