



2024/0017(COD)

11.11.2024

DRAFT OPINION

of the Committee on Transport and Tourism

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council 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)0023 – C9-0011/2024 – 2024/0017(COD))

Rapporteur for opinion: Markus Ferber

PA_Legam

SHORT JUSTIFICATION

Your Rapporteur for opinion shares the general intention of the European Commission to strengthen the screening of foreign investments in the Union. From the Committee for Transport and Tourism's (TRAN) perspective, he considers it is of crucial importance that the infrastructure of the Trans-European Network for Transport (TEN-T) and the Connecting Europe Facility (CEF) are protected against investments that have the aim or the potential of pursuing a third country's policy objective.

Your Rapporteur for opinion considers recent cases of European port infrastructure being entirely or partially sold to Chinese or Russian investors a risk to public order and security that could potentially have been prevented if a stronger European framework, setting common conditions for the screening of such investments, had been in place.

Your Rapporteur for opinion therefore proposes in particular:

- to oblige Member States and the Commission to more explicitly take into account the geopolitical situation, when determining whether an investment is likely to negatively affect security or public order;
- to take full account of the cross-border and network character of TEN-T infrastructure, where each piece of infrastructure is needed for the functioning of the European network as a whole, which makes it evident that there cannot be fundamental differences of appreciation;
- to include the potential risk of influence exerted by third country individuals to security and public order, as seen in another field with the recent takeover of Twitter/X;
- to oblige and enable the Commission to publish a non-classified summary of its opinions when assessing a risk of a foreign investment to the security or public order of more than one Member State. The current situation, where the Commission writes in-depth opinions, but neither their nature (yes/no) nor the broad factual elements that have led to this conclusion are known to the general public, cannot continue.

Your rapporteur for opinion considers that Europe should be a place that is both open to foreign direct investments and the resulting opportunities for our businesses and citizens. However, it should not be naive, when it comes to the influence of autocratic third countries in particular. This should be the main message of TRAN, reflected by the amendments put forward in this opinion in the areas of its competence.

AMENDMENTS

The Committee on Transport and Tourism submits the following to the Committee on International Trade, as the committee responsible:

Amendment 1

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) For greater clarity, the list of projects or programmes of Union interest should be listed in Annex I. These should include any foreign investments undertaken on the trans-European networks for transport, energy and communication, as well as programmes providing funding for research and development for activities relevant for the security or public order of the Union. Due to the importance of these projects and programmes for the security and public order of the Union, Member States should screen foreign investments into Union undertakings that are part of or participating in these projects or programmes, including those that receive funding from the Union.

Amendment

(27) For greater clarity, the list of projects or programmes of Union interest should be listed in Annex I. These should include any foreign investments undertaken on the trans-European networks for transport, energy and communication, as well as programmes providing funding for research and development for activities relevant for the security or public order of the Union. Due to the importance of these projects and programmes for the security and public order of the Union, ***and due to their inherent cross-border nature and network character, which implies that the functioning of each individual piece of infrastructure in each individual Member State is essential for the functioning of the European network as a whole***, Member States should screen foreign investments ***undertaken into those networks or*** into Union undertakings that are part of or participating in these projects or programmes, including those that receive funding from the Union.

Or. en

Amendment 2

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) To ensure a consistent approach to

Amendment

(35) To ensure a consistent approach to

the screening of investments across the Union, it is essential that the standards and criteria used to assess likely risks to security and public order are those set at Union level in this Regulation. Those should include the impact on the security, integrity and functioning of critical infrastructure, the availability of critical technologies (including key enabling technologies) and the continued supply of critical inputs for security or public order, the disruption, failure, loss or destruction of which would have a significant impact on security and public order in one or more Member States or on the Union as a whole. In that regard, Member States and the Commission should also take into account the context and circumstances of the foreign investment. This should include, in particular, whether an investor is controlled directly or indirectly, for example through significant funding, by the government of a third country or is involved in pursuing policy objectives of third countries to facilitate their military capabilities. In this context, if applicable, Member States and the Commission should also consider why the foreign investor, its beneficial owner or any of its subsidiaries or a person acting on behalf or at the direction of such a foreign investor is subject to any type of Union restrictive measures pursuant to Article 215 TFEU.

the screening of investments across the Union, it is essential that the standards and criteria used to assess likely risks to security and public order are those set at Union level in this Regulation. Those should include the impact on the security, integrity and functioning of critical infrastructure, the availability of critical technologies (including key enabling technologies) and the continued supply of critical inputs for security or public order, the disruption, failure, loss or destruction of which would have a significant impact on security and public order in one or more Member States or on the Union as a whole. In that regard, Member States and the Commission should also take into account the context and circumstances of the foreign investment, **and the current geopolitical situation**. This should include, in particular, whether an investor is controlled directly or indirectly, for example through significant funding, by the government **or an individual** of a third country or is involved in pursuing policy objectives of third countries to facilitate their military capabilities. In this context, if applicable, Member States and the Commission should also consider why the foreign investor, its beneficial owner or any of its subsidiaries or a person acting on behalf or at the direction of such a foreign investor is subject to any type of Union restrictive measures pursuant to Article 215 TFEU.

Or. en

Amendment 3

Proposal for a regulation Recital 41 a (new)

Text proposed by the Commission

Amendment

(41a) While the confidentiality of most sensitive information should be ensured,

the interest of the general public, to know at least the essence (yes/no) of the Commission's opinion pursuant to Article 7 and the main lines of reasoning that have led to this opinion, should also be respected. The Commission should therefore prepare a non-classified summary of its opinion and make it publicly available.

Or. en

Amendment 4

Proposal for a regulation

Article 5 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States *may* notify any foreign investment that do not meet the conditions set out in paragraphs 1 and 2 if the Member State where the Union target is established considers that a foreign investment could be of interest to the other Member States and the Commission from a security or public order perspective, including where the Union target has significant operations in other Member States, or belongs to a corporate group that has several companies in different Member States which are economically active in one of the areas listed in Annex II.

Amendment

Member States *shall* notify any foreign investment that do not meet the conditions set out in paragraphs 1 and 2 if the Member State where the Union target is established considers that a foreign investment could be of interest to the other Member States and the Commission from a security or public order perspective, including where the Union target has significant operations in other Member States, or belongs to a corporate group that has several companies in different Member States which are economically active in one of the areas listed in Annex II.

Or. en

Amendment 5

Proposal for a regulation

Article 7 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) considers that a foreign investment is likely to negatively affect its security or

Amendment

(a) considers that a foreign investment is likely to negatively affect its *or the*

public order; or

Union's security or public order; or

Or. en

Amendment 6

Proposal for a regulation Article 7 – paragraph 11

Text proposed by the Commission

11. When issuing comments or an opinion pursuant to this Article, the Member States, and the Commission, as the case may be, shall consider whether such comments or opinion should be classified information and what level of classification should apply thereto, in accordance with Union and the respective national law on classified information.

Amendment

11. When issuing comments or an opinion pursuant to this Article, the Member States, and the Commission, as the case may be, shall consider whether ***and which parts of*** such comments or opinion should be classified information and what level of classification should apply thereto, in accordance with Union and the respective national law on classified information.

Or. en

Amendment 7

Proposal for a regulation Article 7 – paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. When an opinion issued by the Commission pursuant to this Article contains classified information, the Commission shall prepare a non-classified summary and make it available to the general public.

Or. en

Amendment 8

Proposal for a regulation Article 8 – paragraph 8

Text proposed by the Commission

8. Where, due to exceptional circumstances, the notifying Member State considers that its security or public order requires issuing a screening decision before the deadlines referred to in paragraph 3 expire, it shall notify the other Member States and the Commission of its intention and duly justify the need for immediate action. The other Member States and the Commission shall provide comments or issue an opinion expeditiously. This procedure shall not be invoked to serve purely the commercial interests of the applicant requesting the authorisation.

Amendment

8. Where, due to exceptional circumstances, the notifying Member State considers that its security or public order requires issuing a screening decision before the deadlines referred to in paragraph 3 expire, it shall notify the other Member States and the Commission of its intention and duly justify the need for immediate action. The other Member States and the Commission shall provide comments or issue an opinion expeditiously. This procedure shall not be invoked to serve purely ***or mainly*** the commercial interests of the applicant requesting the authorisation.

Or. en

Amendment 9

Proposal for a regulation Article 13 – paragraph 4 – point e

Text proposed by the Commission

(e) whether the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of the foreign investor is likely to pursue a third country's policy objectives, or facilitate the development of a third country's military capabilities.

Amendment

(e) whether the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of the foreign investor is likely to pursue a third country's ***or a third country's citizen's*** policy objectives, or facilitate the development of a third country's military capabilities, ***or asymmetrically strengthen a third country's position vis-à-vis a Member State, several Member States or the Union as a whole.***

Amendment 10

Proposal for a regulation

Article 13 – paragraph 4 – point e a (new)

Text proposed by the Commission

Amendment

(ea) whether the existence of a geopolitical situation of particular importance for the security or public order of the Union has to be taken into account.

Or. en

Amendment 11

Proposal for a regulation

Article 19 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) the emergence of a geopolitical situation of particular importance for security or public order of the Union.

(e) the emergence of a ***new*** geopolitical situation of particular importance for security or public order of the Union.

Or. en