

The EU Foreign Subsidies Regulation: 2024 in Review and Predictions for 2025

January 27, 2025

In 2024, the FSR's first year in operation saw a large number of filings but limited enforcement, with only a handful of Phase 2 reviews, one conditional merger clearance and two *ex officio* cases. With the FSR now up and running, in 2025, we expect the EC's focus to be on demonstrating the FSR's value and delivering practical results by stepping up enforcement, building a corpus of reasoned decisions, and – it is hoped – developing a more streamlined process for non-issue cases.

2024 in Review

First Year In Numbers

- **Mergers.** 120 cases received for prenotification discussions, and over 100 formal filings.¹
- **Public tenders.** 1,108 filings in connection with 213 tenders.
- **Ex Officio.** 2 cases opened: (i) wind turbine supplies in Spain, Greece, France, Romania, and Bulgaria; and (ii) security equipment (Nuctech).

In-Depth Investigations

- **Mergers.** One Phase 2 review: the acquisition of PPF, a Czech-headquartered telecoms operator by e&, a telecoms operator controlled by the United Arab Emirates.² The review resulted in the EC's first conditional approval, with remedies to remove an unlimited guarantee and prevent the transfer of any foreign subsidies to EU activities (see our [alert memo](#)).
- **Public tenders.** Three Phase 2 reviews opened: (i) solar photovoltaic supplies in Romania (ENEVO Group, LONGi Green Energy Technology, and Shanghai Electric Group); and (ii) electric trains in Bulgaria (CRRC Corporation).³ These cases were closed after the bids were withdrawn.

Other Legal Developments

- The EC used its dawn raid powers for the first time, to conduct unannounced inspections at Nuctech's premises in the Netherlands and Poland.⁴
- The General Court temporarily upheld the EC's powers to seize China-based inboxes under its dawn raid powers, following a request for interim measures by Nuctech.⁵ The case is still under appeal.
- The EC published preliminary guidance on the assessment of distortion and the balancing test.

Enforcement Trends in 2024

Several themes emerged from the EC's enforcement activity (see further analysis in our dedicated [alert memo](#)):

- **Chinese and Gulf subsidies:** All Phase 2 and *ex officio* reviews targeted Chinese subsidies, other than the sole Phase 2 merger case which concerned subsidies from the United Arab Emirates.
- **Strategic sectors:** Enforcement focused on sensitive sectors and those deemed critical to EU competitiveness, such as clean technologies (wind, solar power, electric trains), telecoms, and security equipment.
- **Origin of M&A funds:** In mergers, the EC focused on state-linked support for the transaction, including unlimited state guarantees that could enable the acquirer to access cheaper financing.
- **Distortions of public tenders:** The EC relied on general indications of distortion to open in-depth reviews of public tenders – a significantly cheaper bid compared to rival offers, and the fact that potential subsidies far exceeded the value of a bid or contract.

¹ Figures as at October 31, 2024, *i.e.*, a full year after the FSR took full effect on October 12, 2024, reported by the EC at a [conference](#) in December 2024.

² Case FS.100011 *Emirates Telecommunications Group / PPF Telecom Group*.

³ Case FSP.100151 *ENEVO Group*; Case FSP.100154 *Shanghai Electric*; Case FSP.100147 *CRRC Corporation*.

⁴ Case FS.100068 – *Nuctech*

⁵ Case T-284/24 R *Nuctech Warsaw Company Limited and InsTech Netherlands v Commission*.

Predictions for 2025

More Intense Enforcement

The EC plans to “*vigorously enforce*” the FSR, as part of its overarching strategy to “*increase security and reduce dependencies in the EU*”.⁶ We expect more *ex officio* cases, with targets identified through complaints, data from merger and public tender filings, possible intelligence provided by Member States, and the EC’s work in “*proactively mapping the most problematic practices that could lead to competition distortions*”.⁷ Mergers involving state-linked acquirers will continue to receive detailed scrutiny. The EC will keep pursuing Chinese subsidies despite vocal opposition from official quarters,⁸ but will be particularly sensitive to discrimination arguments, and the need to ensure its decisions are proportionate and well-founded.

Greater Clarity

One year on, the FSR’s concepts and substantive tests of distortion and positive effects remain poorly understood. While the EC has released guidance, these are no substitute for fully reasoned decisions to show how the FSR applies to real-world situations. Only one decision has been adopted to date, and it is not (yet) published. We can expect improvements in 2025 as:

- The Commission has started to list notified FSR merger cases on its website, as for State aid and merger control cases;
- More active enforcement will yield a larger number of decisions, and it is hoped these will be published promptly.
- The EC must issue formal guidelines on the FSR’s substantive tests (including in mergers and public tenders) by January 2026, and may publish draft versions for general consultation.
- The EC will soon present its annual report on the FSR’s application and implementation to the European Parliament and Council.
- The EC will publish its inaugural three-year review of the FSR’s implementation by July 2026, and may propose new notification thresholds or other legislative changes. In preparation, the EC may consult the public for views.

Increased Pragmatism

The new Commission aims to cut red tape and “*make business easier and faster*” to improve the EU’s competitiveness.⁹ With this policy in mind and a year’s experience under its belt, it is hoped the EC will develop a more pragmatic approach for cases that do not raise substantive concerns, e.g., by limiting the scope of information required. This would reduce the administrative burden created by the FSR’s low filing thresholds and free up enforcement resources for problematic cases. At the same time, the current lack of understanding on typical waivers is unsatisfactory and to improve transparency, the EC should publish (updated) guidance on this topic and the form requirements.

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⁶ [Mission Letter](#) from President von der Leyen to EVP Ribera, September 17, 2024; [Speech](#) by EVP Ribera at the Forum Europa Brussels Breakfast, January 20, 2025.

⁷ [Mission Letter](#) from President von der Leyen to EVP Ribera, September 17, 2024.

⁸ Following an investigation, on January 9, 2025, China’s Ministry of Commerce [determined](#) that the FSR constitutes a trade and investment barrier under China’s Rules on Trade and Investment Barrier Investigations.

⁹ [Political Guidelines](#) for the Next European Commission (2024-2029) of (then) Presidential Candidate von der Leyen, p.7.