

## Foreign Subsidies Regulation: recent enforcement developments and practical takeaways

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Over recent months, the European Commission has accelerated enforcement under Regulation (EU) 2022/2560 on foreign subsidies distorting the Internal Market (FSR). The direction of such enforcement is increasingly defined: ex officio inspections are extending into digital and consumer-facing markets, in-depth probes are maturing into conditional clearances, and public procurement enforcement continues to test bids involving Chinese state-linked operators.

The updates below highlight key developments and emerging risk themes for transaction planning, tender strategy, and compliance.

### I **Lisbon “Violet” line: in-depth investigation into CRRC-linked supplier**

On 4 November 2025, the Commission opened an in-depth investigation (FSP.103117) into the tender for the “*Design and construction, acquisition of vehicles and maintenance services of the Violet Line of the Lisbon Metro,*” valued at approximately EUR 600 million. The probe focuses on Portugal CRRC Tangshan Rolling Stock Unipessoal, LDA, acting as a supplier to a consortium led by Mota-Engil Engenharia e Construção, S.A., and its links to CRRC Tangshan Co., Ltd. and ultimately CRRC Group Corporation Ltd., a majority state-owned enterprise supervised by China’s State-owned Assets Supervision and Administration Commission (SASAC).

At the preliminary stage, the Commission identified indications of significant foreign financial contributions potentially constituting foreign subsidies under Article 3 FSR, including (i) provision of goods and services via Chinese public procurement contracts to CRRC entities with an aggregate value potentially exceeding EUR 36 billion across the three years prior to notification, (ii) approximately EUR 471 million in government grants over the same period, and (iii) a continuous 10-percentage-point reduction from China’s standard 25% Enterprise Income Tax rate. The Commission considers these measures to confer a direct benefit on CRRC entities and an indirect benefit on Portugal CRRC, potentially enabling an unduly advantageous tender under Article 5(1)(e) FSR.

This is the second CRR-related in-depth investigation in the EU public procurement space. In February 2024, CRR Qingdao Sifang Locomotive Co., Ltd. withdrew from a Bulgarian rolling-stock tender following an FSR in-depth investigation, after which the Commission closed the case.

## II **ADNOC/Covestro: second conditional clearance under the FSR**

On 14 November 2025, the Commission conditionally cleared ADNOC's acquisition of Covestro (FS.100156), following an in-depth review of foreign financial contributions from the UAE. The Commission identified foreign subsidies liable to distort the Internal Market, including an alleged unlimited state guarantee benefiting ADNOC, a committed capital increase by ADNOC into Covestro, and certain favourable UAE tax measures. In particular, unlimited guarantees fall within the so-called "blacklist" contained in Article 5 FSR.

The Commission considered that these subsidies could have influenced both the acquisition process and post-transaction EU activities by artificially enhancing financing capacity and risk tolerance. To address these concerns, ADNOC committed to align its articles of association fully with ordinary UAE insolvency law to remove any unlimited guarantee, and to provide transparent, pre-defined access to certain Covestro sustainability-related patents, designed to mitigate negative effects and foster innovation spillovers. These commitments apply for 10 years, with patent-licensing obligations continuing for the life of agreements concluded during that period.

## III **First use of FSR "call-in" powers for below-threshold public tender**

At the end of November, the Commission used its "call-in" powers for the first time to review a public procurement below the EUR 250 million threshold. The identity of the tender and the company concerned has not been disclosed.

This step indicates the Commission's willingness to assert jurisdiction where indicia of distortive foreign subsidies arise, irrespective of value thresholds, and underscores the importance of early foreign financial contribution mapping for bidders in sensitive sectors.

## IV **Temu: *ex officio* dawn raids in Ireland**

In early December, the Commission carried out unannounced inspections at a Temu facility in Ireland under the FSR. Temu, owned by China-based PDD Holdings, operates an online marketplace across multiple product categories.

While the precise market conduct under review has not been specified, the action aligns with the EU's broader focus on fast-fashion and platform operators, including scrutiny of aggressive pricing and sales strategies viewed as potentially distortive. The inspections follow earlier FSR dawn raids at Nuctech's EU premises

## V **Nuctech: first *ex officio* in-depth investigation**

On 11 December 2025, the Commission opened an in-depth investigation into Nuctech (FS.100068), a Tsinghua Tongfang group company indirectly controlled by the Chinese state, regarding potential foreign subsidies in the production and sale of threat detection systems (TDS) and related services within the EU. This follows an *ex officio* inquiry initiated with inspections in Poland and the Netherlands in April 2024, the legitimacy of which is currently before the EU General Court.

Based on preliminary findings, the Commission is examining grants, preferential tax measures, and preferential financing that may have enabled Nuctech to offer prices and conditions in tenders for large TDS and related services that competitors cannot reasonably match, thereby distorting competition.

## VI **What to watch**

By 13 January 2026, the Commission is expected to publish FSR guidelines clarifying the notion of distortion, the balancing test, and use of “call-in” powers. Draft guidelines were released for public consultation on 18 July 2025.

By 14 July 2026, the Commission must issue its first implementation and enforcement report on FSR. Potential legislative proposals may follow, including adjustments to notification thresholds for concentrations and public procurement.

## VII **Practical implications**

The Commission’s enforcement pattern signals sustained attention to state-linked players in public procurement, enhanced scrutiny of blacklisted subsidies in transactions, and a readiness to use inspections and call-ins in dynamic, data-driven consumer markets.

Legal departments should ensure robust foreign financial contribution mapping, early risk assessments for tenders and deals, and contingency planning for commitments, particularly where tax measures, guarantees, or significant state transactions feature in financing or cost structures.

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## Contacts

### **Guido Bellitti**

European Law & Antitrust  
T. +39 06 466221  
guido.bellitti@chiomenti.net

### **Matteo Farnese**

European Law & Antitrust  
T.+32 (0)2 5127731  
matteo.farnese@chiomenti.net

### **Riccardo Mazzocchi**

European Law & Antitrust  
T.+32 (0)2 5127731  
riccardo.mazzocchi@chiomenti.net

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