

Brussels, November 2025

Foreign Subsidies Regulation review

Business & Science Poland position

Business & Science Poland welcomes the opportunity to contribute to the European Commission's first review of the Foreign Subsidies Regulation (FSR). As users of the FSR framework in large, complex procurement and investment procedures, our members have direct, practical experience with the Regulation's implementation since its entry into application on 12 July 2023.

In light of the Commission's call for general feedback on the scope, aims, and functioning of the FSR review, this position paper sets out our observations and recommendations concerning:

1. The assessment of foreign subsidies in procurement procedures,
2. Ex officio reviews,
3. The relevance and proportionality of notification thresholds,
4. The overall administrative burden placed on contracting authorities and businesses.

KEY MESSAGE

BSP fully supports the objectives of the FSR; however, its current procedures require targeted improvements to ensure that the Regulation functions effectively in complex public procurement processes. In particular, lengthy in-depth investigations, duplicative verification steps, and limited procedural communication create delays and legal uncertainty, underscoring the need for streamlined multi-stage verification, proportionate timelines, and systematic transparency from the Commission.

1. The assessment of foreign subsidies in procurement procedures

In principle, we welcome the fact that the European Commission has instruments to verify the impact of foreign subsidies on the internal market. This is particularly important in situations involving contractors from non-EU and non-GPA (Government Procurement Agreement) countries, who are not required to comply with EU labour, environmental, or social standards, factors that significantly influence their competitive position.

However, **the current FSR provisions do not ensure sufficient transparency or legal certainty for contracting authorities**. In multi-stage procurement procedures, the Regulation introduces both a preliminary and a final verification, with the preliminary phase ending in a suspension.

Such a suspension appears unnecessary, as it provides no clear information to contracting authorities – especially in cases where the authority is not informed that the procedure has been suspended.

2. Ex officio reviews

In addition, the deadlines available to the Commission to close an in-depth investigation (up to 110 working days) are disproportionately long. Public procurement procedures are often conducted in the public interest, and delays of this scale risk postponing contract signature to the point where the contract becomes redundant or no longer meets the intended public objective.

3. Relevance and proportionality of notification thresholds

In the event of future amendments to the regulation, the contracting authority proposes that in multi-stage procedures the Commission should carry out the full verification at the stage of assessing requests to participate, and only in cases where new entities (e.g. subcontractors) emerge during the procedure should the Commission carry out verification solely with respect to that new entity. Conducting negotiations or dialogue with contractors who will later be rejected by the Commission after the offer stage is unjustified.

4. Overall administrative burden on contracting authorities and businesses

Furthermore, the Commission should systematically inform contracting authorities of:

- (a) requests for clarification or supplementary information addressed to notifying parties,
- (b) the suspension of preliminary verification,
- (c) the conclusion of in-depth investigations.

Based on the contracting authority's experience (e.g. Centralny Port Komunikacyjny), such information is not always communicated proactively and is often provided only upon request. Full awareness of the procedure's progress is essential for contracting authorities to plan the subsequent steps in the procurement process, including the timely conclusion of the public contract.

About BSP

Business & Science Poland (BSP) combines the experience of leading Polish enterprises with the EU agenda. We represent the knowledge and interests of Polish companies employing over 280,000 people in Poland, the EU, and globally. Our goal is to support the EU Single Market in line with the need for its responsible and elective transformation. This opinion presents the position of BSP members representing the financial, air transport, fertiliser, chemical, mining, refining, fuel and energy sectors.