



**Summary notice concerning the initiation of an in-depth investigation in case FSP.100147 pursuant to Articles 10(3)(d) of Regulation (EU) 2022/2560**

(C/2024/1913)

On 16 February 2024, in accordance with Article 10(3) of Regulation (EU) No 2022/2560 (the 'FSR'), <sup>(1)</sup> the Commission decided to initiate an in-depth investigation in the above-mentioned case after finding, based on a preliminary review, sufficient indications that CRRC Qingdao Sifang Locomotive Co., Ltd. (the 'Notifying Party') in the public procurement procedure described below has been granted foreign subsidies that distort the internal market. The initiation of the in-depth investigation with regard to the notified public procurement procedure is without prejudice to the final decision in this case.

### 1. The public procurement procedure

On 4 September 2023, the Ministry of Transport and Communications of Bulgaria (hereinafter: the contracting authority) launched an open public procurement procedure for the project 'Bulgaria-Sofia: Railway and tramway locomotives and rolling stock and associated parts' under reference 2023/S 169-531800 <sup>(2)</sup> with an estimated value of EUR 613 765 903,66 <sup>(3)</sup>. The tender concerns the following project: the provision of 20 single deck zero-emission electric 'push-pull' trains with a maximum speed of 200 km/h and a capacity of at least 300 seats each, the complete maintenance of the rolling stock from the entry of the first trainset into the relevant national registry for a period of 15 years as well as the training of staff. The extended deadline to submit offers was 8 December 2023, until which the contracting authority received two offers.

On 3 January 2024, in its notice with reference 2024/S 002-003259, the contracting authority declared that open procedure unsuccessful as none of the offers received met the requirements relating to the performance of the contract. As a result, the contracting authority decided to launch a negotiated procedure without prior publication and invited the two bidders that had submitted an offer during the open procedure to participate in the negotiated procedure.

The deadline to submit offers in the negotiated procedure without prior publication was 17 January 2024.

On 22 January 2024, the Commission received a notification pursuant to Article 29(1) FSR from CRRC Qingdao Sifang Locomotive Co., Ltd. forwarded by the contracting authority concerning the public procurement procedure for the project 'Bulgaria-Sofia: Railway and tramway locomotives and rolling stock and associated parts' in the context of this negotiated procedure without prior publication.

### 2. The Notifying Party and the foreign financial contributions notified

The Notifying Party is a majority owned subsidiary of CRRC Sifang Co., Ltd., owned by CRRC Corporation Limited. In parallel, the Notifying Party holds shares in a number of subsidiaries without commercial autonomy active both in China and in Singapore, Argentina, Egypt, Indonesia and Brazil.

The Notifying Party did not report any foreign financial contributions potentially falling under Article 5 FSR, which are most likely to distort the internal market.

The Notifying Party stated it did not receive individually any individual foreign financial contributions equal to or greater than EUR 4 million per third country.

On 24 January 2024, the Commission services sent a request for information to the Notifying Party, with a deadline to respond on 26 January 2024, asking for (i) information on its ownership structure = in line with Article 28(1)(b) FSR, (ii) information on all foreign financial contributions received by the entities identified under the previous point, when the value of individual financial contribution(s) is equal to or greater than EUR 4 million in the three years prior to the notification per third country, (iii) information on whether any individual foreign financial contributions equal to or

<sup>(1)</sup> Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market (OJ L 330, 23.12.2022, p. 1).

<sup>(2)</sup> <https://ted.europa.eu/EN/notice/-/detail/531800-2023>

<sup>(3)</sup> Based on exchange rate of 26 January 2024, where 1 Bulgarian Lev equals to EUR 0,5111.

greater than EUR 4 million per third country have been granted to any direct or indirect subsidiaries of CRRC Corporation Limited in the three years prior to the notification, and (iv) relevant annual reports or financial statements for the three years prior to the notification. The Notifying Party replied to the request for information within the deadline.

### 3. Indications of the presence of foreign subsidies

Based on the information available to it at this stage, <sup>(4)</sup> the Commission considers that there are sufficient indications that the Notifying Party – in accordance with Article 28(1)(b) FSR has received the following foreign subsidies within the meaning of Article 3 FSR:

- Public procurement contracts awarded to the Notifying Party and to entities of the CRRC Corporation Limited of more than EUR 7,5 billion which conferred a benefit to the Notifying Party. Indeed, the Notifying Party failed to provide sufficient evidence that those public procurement contracts were awarded to entities of the CRRC Corporation Limited on competitive market conditions. In addition, those contracts and the related benefit is specific to the Notifying Party.
- Total balance of government grants of EUR 804 million as of 30 June 2023, accounted for as deferred income, which conferred a benefit to the Notifying Party, and which is specific to the Notifying Party.
- Government grants ‘other than grants which are closely related to the company’s business’, made available to CRRC Corporation Limited in amounts of EUR 355 million for 2020, EUR 301 million for 2021, EUR 234 million for 2022, and EUR 51 million for the first half of 2023, which conferred a benefit to the Notifying Party, and which is specific to the Notifying Party.

### 4. Indication of a distortion on the internal market

Based on the information available to it at this stage, the Commission considers that there are sufficient indications that the foreign subsidies preliminarily identified in Section 3 are liable to improve the competitive position of the Notifying Party in the internal market and, in doing so, actually or potentially negatively affect competition in the internal market within the meaning of Article 4 FSR.

The total amount of foreign financial contributions indicated above amounts to approximately EUR 1.745 billion, thus five times larger than the value of the bid of the Notifying Party.

### 5. Conclusion

Considering the total amount of foreign financial contributions and the fact that the offer of the Notifying Party submitted to the public procurement procedure in question is substantially lower than the estimated costs of the contracting authority and the offer of the competitor, the Commission based on its preliminary review of the financial contributions under examination, has sufficient indications that the Notifying Party has been granted foreign subsidies that may distort the internal market.

### 6. Invitation for comments

In accordance with Articles 10(3)(d) and 40(1) FSR and Article 8(1) of Regulation (EU) 2023/1441 (the ‘FSIR’) the Commission invites any natural or legal person, Member States as well as the third country that granted the foreign subsidies identified in Section 3 to submit their comments. In accordance with Article 8(3) FSIR, where the submitted written comments include confidential information, the submitting person shall provide a non-confidential version of the submission at the same time as the confidential version.

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<sup>(4)</sup> Despite the request of the Commission to the Notifying Party to list all entities falling under Article 28(1)(b) FSR, the Commission notes that not all entities were listed, therefore it cannot be excluded that entities not listed have received additional foreign financial contributions that constitute foreign subsidies.

In duly justified cases, the providers of comments may request that their identity is not disclosed. Anonymity will be granted based on explicit good cause shown in the request.

In order to be fully taken into account in the procedure, comments should reach the Commission not later than 10 working days following the date of this publication. Observations can be sent to the Commission by email to [grow-fsr-pp-notifications@ec.europa.eu](mailto:grow-fsr-pp-notifications@ec.europa.eu), with reference FSP.100147.

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