

Guidelines for enterprises in the transport sector: Management of economic activity with foreign operators that may pose a risk or threat to national security interests

1. Background information

Investments from foreign enterprises contribute to value creation in Norway and are essential for many businesses and jobs. At the same time, the Norwegian Intelligence Service, the Police Security Service and the National Security Authority (EOS services) highlight in their threat and risk assessments how different forms of economic activity from countries with which we do not cooperate on security matters could represent a significant national risk and come into conflict with our national security interests. According to EOS, the ability to detect, alert and manage unwanted strategic investments and security-threatening activities must therefore be strengthened in all sectors.

The Ministry of Transport and Communications' guidelines for enterprises in the transport sector explains the handling of economic activity with foreign operators that may pose a risk or threat to national security interests, which are a follow-up on the EOS services' assessments and recommendations.

2. Purpose of the guidelines

The Security Act and its Regulations entered into force on 1 January 2019 and are intended to safeguard national security interests and prevent, detect and counter activities that threaten our national security. With regard to the management of economic activity from countries with which Norway does not cooperate in terms of security, the provisions in Chapter 10 on ownership control are particularly relevant.

In addition, the provisions of Section 2-5 of the Act give the King in Council the opportunity to make necessary decisions to prevent activities that would threaten our security interests or other planned or ongoing activities that may involve *a not insignificant risk or threat to national security interests*. Such a decision may be made in relation to enterprises that are not covered by the Security Act, without regard to the limitations in the Public Administration Act and regardless of whether the activity is permitted under another act or other decision.

Pursuant to Section 4-5 of the Act, enterprises that are subject to the Security Act have a duty to notify if they become aware of a planned or ongoing activity that may entail *a not insignificant risk or threat to national security interests*.

However, strategic investments, acquisitions or other economic activities may represent a significant national risk even if the affected enterprises *are not* subject to the Security Act. Since such enterprises do not have a duty to notify under the Security Act, it is not certain that they will keep the authorities informed of their own or others' economic activity that could potentially entail a risk to national security interests.

This makes it challenging for governments to keep track of and detect unwanted economic activity in a timely manner. This challenge is also being exacerbated by the fact that supply chains are becoming longer and more complex.

The purpose of the Guidelines is therefore to raise awareness and contribute to a common understanding of how foreign economic activity in the transport sector may pose a risk or threat to national security interests and to identify, assess, disseminate and possibly manage these by relevant authorities and professional agencies. In this way, any risk-reducing measures can be implemented at an early stage, while more invasive measures can be avoided at a later date.

3. Balance of risks

In recent years, the EOS services' threat and risk assessments have highlighted that several states are using economic instruments that, individually and over time, may represent a significant potential for harm to Norwegian security interests. Every single investment, acquisition or financing transaction may seem unproblematic when viewed in isolation. Taken as a whole, however, the scope may allow states with which Norway does not have security cooperation to gain influence that does not correspond to Norwegian security interests.

For example, acquisitions and investments in Norwegian businesses can be used to gain influence over Norwegian decisions and priorities. If parts of the operation and development of Norwegian infrastructure and key enterprises are at the mercy of other countries' political dispositions, Norway will be vulnerable to influence and pressure. It is important to reduce this vulnerability.

The purpose behind the use of economic instruments may also be to gain insight into sensitive information about contingency schemes, critical infrastructure or political decision-making processes, to acquire technology in Norway that they are not allowed to buy, or otherwise to come into a position to carry out security-threatening activities in the future.

Strategic investments and acquisitions can also take place through straw companies and complex corporate structures and can thus be difficult to uncover. In other words, it may be difficult to distinguish strategic acquisitions with illegitimate intentions from ordinary investments made on the basis of purely commercial considerations. It is therefore crucial that all companies are aware of this challenge, and that ownership and supply chains are thoroughly mapped before acquisitions, investments or other economic activities are carried out.

4. Definitions

National security interests are defined in Section 1-5 of the Security Act as the sovereignty, territorial integrity and democratic form of government and overriding security policy interests related to; a) the activities, security and freedom of action of the highest state agencies, b) defence, security and preparedness, c) relations with other states and international organizations, d) economic stability and freedom of action, and e) the basic functionality of society and the basic security of the population.

Economic activity that may pose a risk or threat to national security interests is a broad term that can encompass a wide range of different actions. Examples of such activity in the transport sector may, on the one hand, be an economic activity that enterprises in the transport sector *themselves carry out*, such as procurements for own activities, infrastructure or services, loans and external financing of own projects, as well as foreign acquisitions or direct investments in own activities.

Economic activity may also be carried out *by foreign operators* in the transport sector, such as attempts at acquisitions or direct investments in enterprises that develop or manage important transport infrastructure and services or that develop technology, purchase of property in close proximity to such enterprises or interest in participating in major procurement processes for such enterprises. Such economic activity will in the vast majority of cases be completely legitimate. Whether the activity is considered to pose a risk or threat to national security interests must be determined on the basis of a comprehensive risk assessment; see Item 5 below.

Risk country is a term that is challenging to delineate precisely. For security policy reasons, there is no publicly available overview of which countries Norway does not cooperate with security. Which countries represent an intelligence threat, or which may otherwise threaten our national security interests, may also change over time. Enterprises must therefore assess the risk associated with the country in question based on the information they have and the sources that are available. This can be open threat and risk assessments or information from the media, academia etc. Countries explicitly mentioned in the EOS services' assessments (such as Russia, China and Iran and countries with known close ties to these) will be regarded as risk countries in this context.

5. Guidelines

1. If the contract involves economic activity involving operators associated with countries that may pose a risk or threat to national security interests, the enterprise must assess the extent of risk involved.
2. The assessments must be documented and anchored in the company management.
3. If economic activity is considered to pose a not insignificant risk or threat to national security interests, or if there is considered to be any doubt related to this, the Ministry of Transport and Communications shall be notified.

6. Factors to consider

When assessing whether economic activity may pose a risk or threat to national security interests, the following factors should be included:

- Does the operator/investor have a geographical, economic, political or other connection to a state mentioned in the Intelligence Service's and PST's threat assessments and NSM's risk assessments?

- Will economic activity provide access to sensitive technology or information?
- Will economic activity provide access to or have consequences for critical infrastructure?
- Will economic activity have consequences for the security of critical supply chains?
- Does the economic activity entail establishing a long-term dependency relationship with the operator/investor?
- Will the economic activity give the operator/investor a legitimate physical presence in Norway for a long time?
- Will economic activity provide access to strategic property (property that is close to, or may pose a security risk to, a protectable object or military area or equivalent)?
- Are there other aspects of the case that could be characterised as significant to national security interests? For example, complex/chaotic supply chains?

7. Points of contact and professional resources

The National Security Authority (NSM) is the point of contact for foreign acquisitions and investments that may have consequences for national security interests. The contact point can be used by private and public operators, e.g. enterprises, public agencies or private individuals. Enquiries to NSM should be sent to postmottak@nsm.no. Classified information is sent over the National Limited Network (Nasjonalt BEGRENSET Nett/NBN) at the same time as notification is given on the unclassified network.

The Police Security Service (PST) shall prevent and investigate criminal acts against national security. The PST units in each police district are responsible for advising local authorities and businesses seeking assistance that are subject to Section 6(2) of the [PST Instructions](#). PST can be contacted locally here: <https://www.pst.no/kontorer/>.

Enquiries to the Ministry of Transport and Communications are sent to: postmottak@sd.dep.no. In the event of urgent cases, the Director General of the relevant department in the Ministry can be contacted directly. Classified information is sent over the NBN network at the same time as notification is given on the unclassified network.

The following professional resources may also be useful for assessment work:

- NSM, PST and the Intelligence Service publish three public threat and risk assessments annually: [Risiko](#), [Nasjonal Trusselvurdering](#) and [Fokus](#). Together, these reports provide a good picture of Norway's security challenges and threats to our national security interests, as well as which states and operators are relevant in this context.

- The Norwegian Defence Research Institute report "Foreign Investment and Other Economic Instruments – When Do They Threaten National Security?" ([FFI Report 20/03149](#)) looks at how various foreign investments can threaten national security interests.
- The NSM has prepared several guidelines and manuals based on the Security Act. In this context, we can mention the [Guidelines for the Use of the Security Act to counter investments and acquisitions that would threaten national security](#) and [The Guidelines for Evaluating the Value of Information](#) – all of which are particularly relevant.
- White Paper [Societal Security in an Uncertain World](#), Report to Storting #5 (2020–2021) presents the government's policy in the field of societal security over the next few years. The challenges associated with undesirable investments in Norwegian enterprises are also discussed here.
- [Strategy for societal security in the transport sector](#) is a common platform for the sector's work on societal security and a basis for adaptation within the various branches of transport.
- In the Directorate for Civil Protection and Emergency Planning's [Critical Functions in Society Report](#), we learn which functions are critical for public safety, and it describes the functional capacity that must be planned to maintain regardless of what may occur.