



22.4.2021

WORKING DOCUMENT

on covert funding of political activities by foreign donors

Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation

Rapporteur: Sandra Kalniete

The attempts by foreign actors to influence political activities in the Member States and European elections are just one element of the broader strategies carried out by foreign malign actors in an effort to interfere in the democratic functioning of the EU.

The mandate¹ of the Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation states that the committee should conduct an ‘analysis of the investigations showing that crucial electoral rules have been breached or circumvented, in particular the existing provisions on the transparency of campaign financing, with allegations of political spending by various legal and illegal forms of conduits and straw donors from third-country sources’.

It also tasks the committee with assessing ‘national actions able to provide strict restrictions on the sources of political funding, since foreign actors have found legal and illegal ways to circumvent national legislations and have offered covert support to their allies by taking out loans with foreign banks, providing in-kind things of value, through purchase and commercial agreements, through shell companies, through non-profit organisations, through citizen straw donors, through emerging technologies offering anonymity, through online advertisements, through extremist online media outlets, and through the facilitation of financial activities’, and with identifying ‘possible areas which would require actions regarding the funding of political parties and political campaigns’.

With this in mind, I have prepared this working document focusing specifically on the issue of covert funding of political activities by foreign actors as a means to interfere in elections or referendum campaigns in the EU and its Member States.

This working document is based on the contributions made by experts during the hearings organised within the ordinary meetings of the special committee².

The purpose of this document is to take stock of the main issues brought to the attention of the special committee, in particular the numerous loopholes identified by the experts. It should serve as a basis for listing some of their recommendations, without prejudging the final recommendations that the special committee will adopt at the end of its term.

State of play

Electoral laws, in particular the provisions regarding the financing of political activities, are not harmonised at EU level. Each Member State has its own regulation establishing what is legal and what is not. These differences allow for opaque financing methods by foreign actors through various rules and practices within the EU.

One of the most fundamental issues is the question of donations from foreign actors. The countries that have put in place total bans on foreign donations are Austria, Cyprus, Estonia, Finland, France, Germany, Greece, Malta and Spain, as well as Latvia and Italy, which did so

¹ https://www.europarl.europa.eu/doceo/document/TA-g-2020-0161_EN.html

² In particular the meetings of 2 December 2020 and 25-26 January, 1 February and 23 February 2021.

in 2019³. Conversely, Belgium, Denmark and the Netherlands are reported as having no restrictions on donations from foreign sources. Several other countries apply only partial restrictions.

Another crucial issue is whether sanctions are imposed in the event of breaches of electoral laws and, if so, how severe they are. Such sanctions also differ depending on the country in question and should be analysed in order to measure their effectiveness and deterrence effects.

Moreover, when it comes to protecting national elections from foreign financing, there is also a need to look at the many loopholes in the national legislation. On these loopholes, a number of crucial questions arise, such as how to determine the origin of the donors, what rules should apply for civil society organisations, and what rules should apply for loans.

The proposed list of loopholes in this document partly mirrors the list of the latest report by the Alliance for Securing Democracy, which was presented to the committee on 2 December 2020⁴.

(i) In-kind contributions from foreign actors

This category includes a variety of foreign in-kind contributions to political campaigns, ranging from tangible benefits such as financial loans or elite capture and co-opting.

In the case of France, the loans taken out by the *Front National* from Russian banks in 2014, totalling around EUR 11 million – including one that has not been repaid yet and could hence be seen as a donation in disguise – are striking examples of loopholes that need to be closed. It is worth noting that around the time that the *Front National* received these loans, the party was a vocal proponent of Russian operations in Ukraine, in particular the illegitimate referendum in Crimea in March 2014. Another loan was also obtained by the *Front National* from an Emirate bank in 2017.

In September 2017, a new law was adopted in France prohibiting any loans from a legal person based abroad; however, a physical foreign person can still provide loans under stricter conditions⁵.

Co-opting and elite capture can also be mentioned under this loophole. These may be defined as an extension of incentives to political and business elites in strategic positions aimed at creating dependent relationships which, in turn, provide the actor with an advantage. Co-opting is one of the main tools used by Russia and China to wield influence in several regions of the EU.

The best known examples are from the energy sector, notably Gerhard Schröder, who after serving as Chancellor of Germany worked for Gazprom, Russia's state-owned energy giant, and the former Prime Minister of Finland, Paavo Lipponen, who worked as a consultant to

³ See, in particular, p. 65 of the study *Institutions and foreign interferences*, published at the request of the AFCCO Committee in June 2020:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2020/655290/IPOL_STU\(2020\)655290_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/655290/IPOL_STU(2020)655290_EN.pdf)

⁴ For more information, please refer to the report by the Alliance for Securing Democracy, published on 18 August 2020, <https://www.gmfus.org/publications/covert-foreign-money-financial-loopholes-exploited-authoritarians-fund-political>

⁵ *Loi pour la confiance dans la vie politique*, 15 September 2017.

speed up the application process of Nord Stream 1 in Finland. More recently, the former Minister of Foreign Affairs of Austria, Karin Kneissl, was appointed a board member of Rosneft in March 2021.

China has also been very active in capturing elites from EU Member States, no more so than in the Czech Republic, where the Chinese energy company CEFC offered positions to top Czech civil servants. The President of the Czech Republic, Miloš Zeman, appointed the chair of CEFC, Ye Jianming, as his economic adviser in 2017. CEFC also employed the former Czech EU Commissioner Štefan Füle.

This technique of co-opting top-level civil servants and former politicians is also used extensively by the Chinese telecoms company Huawei in integrated lobbying strategies for its own interests, as well as by the People's Republic of China right across the EU.

Understanding the role of companies in pursuing the geopolitical interests of state actors is crucial when it comes to assessing such cases.

(ii) Straw donors with domestic citizenship or covert agents

In this context, a 'straw donor' is broadly understood as an individual who donates someone else's money to a political party or candidate using his or her own name. Several examples of financial transactions involving intermediaries to hide the real source of foreign funding have been reported to the special committee.

In the run-up to the 2019 European elections, there was an alleged plan to funnel money via an intermediary to the Italian party *Lega* through a USD-1.5 billion sale of 3 million tons of gas by Gazprom to ENI. The plan ultimately failed and a criminal investigation is still ongoing. Had it materialised, the plan would have enabled *Lega* to circumvent the Italian foreign funding limit of EUR 100 000 by using a straw donor operation to cover up significant funding from Russia⁶.

Another example of a straw donor discussed in the committee centres on the Brexit campaign. In 2018, the UK's National Crime Agency launched an investigation into Arron Banks, a major donor to the Vote Leave campaign. In this case, GBP 8 million originated from an offshore source based on the Isle of Man, hiding the real source of the funding which is alleged to have come from Russia. While UK law prohibits the foreign funding of political campaigns, the fact that Mr Banks is a British citizen prompted the NCA to drop its investigation⁷.

Another example is the funding of GBP 435 000 for the leave campaign by the Democratic Unionist Party, which was funnelled through a small organisation – the Constitutional Research Council (CRC) – headed by Richard Cook. The CRC does not reveal the names of its donors in line with the rules in Northern Ireland, where political donations are kept secret, which raised legitimate questions over the origins of the campaign funding for Vote Leave in

⁶ <https://www.buzzfeednews.com/article/albertonardelli/salvini-russia-oil-deal-secret-recording?origin=web-hf>

⁷ See the NCA's public statement on the investigation: <https://www.nationalcrimeagency.gov.uk/news/public-statement-on-nca-investigation-into-suspected-eu-referendum-offences>

this case⁸. Moreover, it is worth noting that the maximum fine for breaking the law on political funding in the UK is only GBP 20 000.

These examples all demonstrate the need to ensure transparency in donations in order to prevent intermediaries from covering up the foreign source of funding.

In order to address these issues, it may be necessary to enforce transparency on physical and legal persons, such as through conformability statements by donors to attest to their status before money can be transferred, or by giving electoral commissions and law enforcement agencies greater powers to investigate the origins of dubious funding.

(iii) Shell companies and businesses

Looking beyond the prohibition of foreign donations, there is the complex issue of how to define the geographical source and origin of funding. In an increasingly globalised context, especially in the case of multinational companies, whose complex structures often occlude transparency of ownership, which is often mixed, this question is even more difficult to resolve.

One concrete example provided to the special committee relates once again to the UK, and the creation of Albion Company, a shell company created by the far-right Britain First party to hide the source of donations worth GBP 200 000 in 2016⁹.

This loophole actually covers two different realities: the shell companies, which do not pursue actual business activities and are nothing but vehicles for financial covering; and the domestic subsidiaries of foreign parent companies used to funnel foreign money into politics.

Different solutions may be considered here, such as the prohibition of shell companies and more robust requirements to reveal the origins of funding through the parent companies.

(iv) Non-profits and third parties

The use of non-profit organisations – such as foundations – for interference is a major problem in Europe, as third party money is unregulated in almost all EU Member States, meaning that these organisations are not required to disclose the identity of their donors and are allowed to finance political parties and candidates.

One could cite many examples regarding the use of third parties as conduits for foreign funding. One particular case concerns the Russian embassy in Latvia, which raised sensitive issues around the time of the elections by financing the activities of its local proxy NGOs, some of which had ties with political parties. Such activities are orchestrated directly by a secret unit established by the Putin administration with the aim of undertaking systematic information-related activities.

⁸ <https://www.bbc.com/news/uk-northern-ireland-46607265>

⁹ <https://www.vice.com/en/article/43jzbp/britain-first-donations-shell-company-investigation>

The role of third-party organisations that provide trans-national financial and political support has also been brought to light, including CitizenGo, an organisation founded by US and Russian ultra-conservatives that has sought to coordinate the activities of far-right parties in Europe. Most notably, CitizenGo provided substantial backing for the campaign of the Spanish political party *Vox*¹⁰ in 2019.

By way of recommendation for the steps ahead, one ought to give careful consideration to the question of banning non-EU third parties and non-profit organisations from foreign funding altogether. The tentative position taken here is that it may be worthwhile to distinguish between third parties that (i) seek to directly influence electoral processes such as elections and referendum campaigns, and (ii) play a legitimate role in participating in the public debate, while recognising that there is a fine line between the two.

(v) Online political advertisements and the laxness of their regulations compared with print and broadcasting media

Social media platforms have played an increasingly prominent role in electoral campaigning and are posing greater risks, not least due to the impact of the COVID-19 pandemic, which has accelerated this trend.

Political advertisements on the internet are not subject to the same disclosure rules and restrictions as regards foreign funding that apply to those on television, radio and in print. Only three EU Member States – Poland, Romania and Hungary¹¹ – make specific reference to online political advertising in their electoral laws. We are operating in a kind of regulatory vacuum that is increasingly undermining our ability to hold free and fair elections.

The October 2018 Code of Practice on Disinformation has failed to address the issue of transparency surrounding political ads online, as the mechanism is voluntary and relies on a system of self-regulated transparency. Moreover, the code's provisions on political ads fail to address a number of emerging issues.

First of all, it is almost impossible to track the flow of money, i.e. who is spending money for the benefit of a particular political actor or group. To do so would require significant resources that are not available to citizens, journalists, civil society organisations and even national enforcement agencies. There is therefore no guarantee that the rules regarding the financing of elections campaigns are adhered to.

Secondly, the services (ads) being sold by the big platforms vary hugely and can take hundreds of thousands of different forms, depending on each user. This shatters any notion of scrutiny of messaging and creates echo chambers in which everybody is seeing a different reality.

Thirdly, and even more dangerously, at the heart of the business model of online advertising in terms of both price and outreach is the use of algorithms. These are designed to push for

¹⁰ Must be noted that this assertion is based on the analysis provided by the expert at the meeting of 2 December 2020, and that the rapporteur is not in position to confirm this information. There is no evidence, at the disposal of the rapporteur, about direct financial contributions provided by Citizen-Go to the political party Vox.

¹¹ For more information, see: <https://www.idea.int/data-tools/question-view/284602>

engagement (i.e. to persuade people to click on an ad), with the result that content that is sensational, extremist or divisive could spread faster and more extensively and bring in more revenue for online platforms than content designed to build a broad consensus, which should be the backbone of democratic debate.

For actors hostile to European democracy, the cost of participating in election campaigns is extremely low, and it could become even lower with the technological developments of automated bots or so called ‘robot trolls’. Another separate issue worthy of note, at this juncture, is the activities of so-called ‘troll farms’, which are often financed by third country citizens or companies and located in other third countries.

Of the preliminary recommendations brought before the consideration of the special committee, the complete transparency of the inflows and outflows of the money involved in online political ads on the internet should be guaranteed.

What is more, there is a need for much greater accountability on the use of algorithms and greater access for other parties in order to understand the potential consequences of algorithms, whether intentional or not. These accountability requirements should be stricter than ordinary advertising and should fully comply with the principle of ‘know your customer’.

The Code of Practice on Disinformation is not working as it should and one of the key problems concerns the use of definitions. There should be a clear definition of political advertising for elections. Currently, the online platforms use various definitions related to advertising. For example, they will very often distinguish between political ads (i.e. ads for politicians in an official campaign) and ‘issues ads’ (i.e. ads about a political topic, but not necessarily closely associated with a particular campaign or person). This approach is unclear, untransparent and not aligned to any legal definition.

Finally, and even more importantly, a harmonised, EU-wide approach should be adopted for electoral laws related to financing, including online political ads. This could dovetail with Member States’ best practices, such as existing laws, voluntary practices like limiting the use of micro-targeting, or more proactive measures to limit foreign-funded political ads, such as those adopted by the Netherlands in February 2021¹².

I welcome, therefore, the European Democracy Action Plan (EDAP), which envisages the adoption of support measures and guidance for political parties and Member States.

(vi) Media outlets funded or supported from abroad

As with political ads, foreign-funded media outlets are proliferating rapidly, particularly through fringe start-up news websites.

Of the manifold examples, the case of the Austrian far-right party *FPÖ* shows how foreign actors such as Russia are interfering in political activities in Europe. According to information at the special committee’s disposal, the *FPÖ* received massive funding from Russia for the

¹² <https://www.politico.eu/article/dutch-parties-reject-foreign-ad-money-for-election-campaigning/>

benefit of its media branches¹³. In exchange, when the *FPÖ* was in government in 2017, it tirelessly advocated an end to the sanctions against Russia before the EU institutions.

(vii) Emerging technologies, such as cryptocurrencies and cashless payments, offering anonymity

Looking ahead

In order to address covert foreign funding, we are faced with the challenge of having to appraise all existing EU and national measures to identify gaps and best practices. We must therefore constantly monitor whether the EU is sufficiently equipped to tackle covert foreign funding both at a national and a European level. Enhanced cooperation between the StratCom Task Force and national authorities can help identify local proxies in this regard.

To close the loopholes with regard to the financing of political parties, with a particular focus on third-country sources, it seems of paramount importance to consider common EU standards that would apply to the national electoral laws in the Member States. Inaction at EU level, however, would sustain the current patchwork of 27 different national jurisdictions.

The curbing of malicious foreign interference can only be achieved by assessing (i) best practices in the legislation of the Member States, and (ii) comprehensive policy reforms implemented in other democratic societies that face similar challenges¹⁴.

From a strategic perspective, the EU should seek to underline the potential costs (financial or reputational) of foreign interference from inauthentic and covert offline and online activities.

Finally, as far as the online domain is concerned, the upcoming legislative proposal on the transparency of political online advertising¹⁵ will be a crucial piece of complementary EU legislation. Furthermore, with a view to future European elections, the ongoing revision of Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and foundations¹⁶ can also help to achieve new levels of transparency.

¹³ Such as www.info-direkt.eu

¹⁴ Principally Australia and its new Foreign Influence Transparency Scheme (FITS) legislation, but also New Zealand (amendments to its Electoral Law in 2019) and Canada (amendments to the legislation prohibiting the use of funds from foreign entities), to name but three.

¹⁵ Public consultation in progress : <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12826-Transparency-of-political-advertising/public-consultation>

¹⁶ OJ L 317, 4.11.2014, p. 1.