CONCEPT NOTE ON TACKLING FOREIGN INTERFERENCE IN HIGHER EDUCATION INSTITUTIONS AND RESEARCH ORGANISATIONS

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This concept paper is intended to serve as a basis for discussion with the Member States and EU R&I stakeholders (higher education institutions (HEIs), Research and Technology Organisations (RTOs), research funding organisations, industry and related associations), in response to the conclusions of the "R&I cooperation with China" meeting of 18 December 2019, which invited Commission services to propose a comprehensive approach to tackle together, foreign interference in European higher education institutions and research organisations, including the creation of relevant guidelines. It is without prejudice to the final position of the European Commission on the matters described within.

1. BACKGROUND

HEIs and research organisations are remarkably open in their approach to international collaboration. This openness and collaboration has greatly contributed to the success of world-class universities and research organisations but simultaneously facilitated foreign interference. A robust and trusted system of international collaboration is one in which risks are managed and benefits realised, therefore it is crucial to maintain and further enhance international R&I cooperation whilst taking measure to limit the adverse effects.

While all governments try to influence deliberations on issues of importance to them, foreign interference occurs when activities are carried out by, or on behalf of a foreign actor, which are coercive, covert, deceptive or corrupting and are contrary to the EU's sovereignty, values and interests.

On 18 December 2019, in response to the Joint Communication 'EU-China – A strategic outlook'[1], the Directorate-General for Research and Innovation organised an event gathering Member States, stakeholders (universities, RTOs, research funding organisations, industry and related associations) and relevant Commission services to discuss the way in which we should cooperate with China in R&I. While this meeting centred solely around China, it formed a starting point towards expanding the focus to challenges related to foreign interference in general.

In the conclusions of that meeting, the participating parties called, among other things, for the establishment of guidelines to help identify and counter foreign interference.

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[1] JOIN/2019/0005

2. ESTABLISHMENT OF GUIDELINES

2.1 Aim of guidelines

We aim to a) protect fundamental values by safeguarding academic freedom, integrity and institutional autonomy, b) protect our key research findings and intellectual assets and to promote cohesion. Guidelines aim to:

- **raise awareness** among MSs, HEIs, research organisations and individuals about foreign interference;
- provide organisations with guidance on how to **prevent** foreign interference;
- guide organisations on how to **react** in case foreign interference is observed and how to **recover** from negative consequences.

2.2 Co-creation

A set of clear guidelines should be co-created with Member States and relevant stakeholders. Through co-creation, it is possible to leverage on the experience gained, achieve alignment with existing guidelines on national and organisational level and improve impact. By involving end-users directly in the creation of the guidelines, a good uptake should be secured.

2.3 Target audience

Security is a collective responsibility and foreign interference can occur at national, organisational and individual level. The target audiences of the guidelines will be a) national authorities, b) research institutions, in particular HEIs and research organisations, c) individuals (researchers and other staff) in general. Given the different perspective on interference issues, separate guidelines could be prepared for organisations and for individuals.

2.4 Boundaries of the guidelines

It is important to define clear boundaries and positioning of the guidelines:

- ✓ The guidelines should not curb international collaboration but should encourage a culture in which risks of international collaboration are managed and benefits realised.
- ✓ Guidelines are not meant to curb organisations' independence or to burden them with additional regulations, but are to be seen as an extra tool designed to assist them.
- ✓ Preventive measures should be proportionate to risk, cautioning against the damage that overreaction can do.
- ✓ The guidelines should be state-agnostic.

3. GUIDELINES CONTENT

The guidelines can be structured around four areas of attention, which are especially vulnerable to foreign intervention: governance, partnerships, security and values.

For each area, a comprehensive and perpetual approach will be presented. In addition, illustrative examples from independent sources will be added after each section to give an idea of possible measures that can be adopted.

3.1 Four areas of attention

Elaboration of each area will depend on the needs of the targeted audience (national authorities, organisations or individuals).

- **Governance**

HEIs and Research Organisations have proper governing structures that are defined by their size, their activities and their priorities. Existing structures might not cope well with new cooperation risks. An agile governance is central to integrating these risks and maintaining reciprocity in research collaboration.

For example, the governing board of the university or research institution could decide to entrust an individual or a group with the tasks of:

- enhancing communication activities, and/or organising events/workshops with relevant stakeholders in order to raise awareness on issues related to foreign interference;
- identifying areas of vulnerability (access to labs and classrooms, problematic procedures, cyber awareness, etc.);
- liaising between the university, research centres, and relevant parties (both governmental and non-governmental) interested in dealing with issues of foreign infringement;
- overseeing information safety and other internal safety procedures;
- assisting/briefing PhD fellows and/or researchers traveling to foreign countries that might not share our scientific values.

- **Partnerships**

Partnership agreements in research are complex and lengthy to negotiate. They can rely on historic procedures and standard liability clauses that might not echo the actual realities of research cooperation. The design, review and improvement of partnership administration is a priority.

For example, prior to the creation of a partnership, an institution could have an interest in:

- pre-establishing what will happen to the data produced by both partners;
- identifying whether there might be ideological, political, and/or moral implications linked to the specific partnership;
- formulating own goals first and identifying the main aim of the partnership in advance;

- laying down other issues that might be important for the success of the partnership:
    - Might there be a risk the partnership could be blocked for political reasons at any stage?
    - Might the research violate ethical standards or national or European export control, dual-use, and/or IPR laws and regulations?
    - Might the structure of the financing create issues or dependencies?
- stating the primacy of EU/Member State law over foreign law in order to maintain ideological independence.
- define red lines and funding sources in advance and clearly include them in the partnership agreement.

- **Security**

Safe collaboration comes with specific safeguards, such as risk management policies and cyber security tools. In a world of increasing threats, it is important for HEIs and Research Organisations to levy on the right practices and tools to reach mutual gains when cooperating.

For example, an institution could enhance security by:

- evaluating their security procedures and improving them if needed;
- sharing information on cyber-hygiene and cyber-awareness to counter instances of click-baiting, phishing, social engineering etc.;
- develop an understanding of its own research programmes and their specific sensitivities.

- **Values**

Academic freedom, integrity and institutional autonomy are the foundational values of research in the liberal world. Collaborating with third countries can put these principles at stake. Organisations should set red lines and follow clear guidelines when cooperating with countries that do not share similar values.

For example, an institution can protect its values by:

- fostering understanding and a culture of awareness to increase the feeling of support towards fundamental values and public responsibility among the members of academic community;
- publicly committing and stressing the paramount importance of our academic values in all interactions;
- developing Codes of Conduct that reiterate our shared values, set high standards, fix red lines and set transparent sanctions for infringement of these values. Codes of Conduct could be shared and co-created with other European HEIs and research centres;
- mainstreaming systematic data collection, risk assessment and monitoring of fundamental values in the internal quality assurance process;

- training researchers and students to identify and report instances of disruption to academic freedom within their institutions;
- providing protection for researchers who may face adverse consequences due to their commitment to fundamental academic values, including measures set up for whistle blowers;
- briefing researchers and students traveling to third countries on the differences between our academic values and the values they might encounter during their academic/research experiences abroad.

3.2 Four phases

The comprehensive approach to tackling foreign interference comprises four phases: awareness raising, prevention, response and recovery to ensure a balance between the reduction of risk and the enhancement of resilience, while ensuring effective response and recovery capabilities. Depending on the desired level of detail incorporated in the guidelines, additional tools such as risk assessment, checklists, screening mechanisms and best practice synopses can be developed.