

CALL FOR EVIDENCE FOR AN INITIATIVE (without an impact assessment)

This document aims to inform the public and stakeholders about the Commission's work, so they can provide feedback and participate effectively in consultation activities.

We ask these groups to provide views on the Commission's understanding of the problem and possible solutions, and to give us any relevant information they may have.

TITLE OF THE INITIATIVE	Defence of Democracy package
LEAD DG – RESPONSIBLE UNIT	SG E1 / DG JUST - D3 – C2
LIKELY TYPE OF INITIATIVE	Non-legislative / legislative
INDICATIVE TIMING	Q2-2023
ADDITIONAL INFORMATION	New initiative announced in the CWP 2023; the defence of democracy package

This document is for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by this document, including its timing, are subject to change.

A. Political context, problem definition and subsidiarity check

Political context

Nurturing, protecting and strengthening our democracy is at the heart of the Commission's priorities as set out in the [Political Guidelines](#) issued by President Von der Leyen. In 2020, under the headline ambition 'A new push for European Democracy', the European Commission presented the [European Democracy Action Plan](#), with the aim of protecting and strengthening EU democracies by safeguarding the integrity of elections, strengthening media freedom and pluralism, and fighting against disinformation. The Commission committed to reviewing implementation of the action plan in 2023.

Recent years have seen a marked increase in cases of covert interference in our democratic sphere by countries outside the EU, with the risks further accentuated by the Russian war of aggression against Ukraine. The measures put forward by the Commission in the [2020 European Democracy Action Plan](#) are under way and have helped to strengthen democratic resilience across the three pillars of the action plan (election integrity, media pluralism, fight against disinformation). However, methods of threatening EU democracies – whether from outside, or using organisations established in the EU which act as proxies for foreign entities – are constantly evolving, requiring a strengthened response to build resilience to foreign interference.

In the [2022 State of the Union address](#), President von der Leyen announced an initiative to defend democracy from covert foreign influence. This initiative will be part of a package of measures. The package will complement actions already taken at EU level under the European Democracy Action Plan. It will focus on transparency measures to prevent covert foreign interference. It will also include specific measures on electoral matters ahead of the elections to the European Parliament (drawing on discussions in electoral networks), and measures to foster an enabling civic space and promote inclusive and effective engagement by public authorities with civil society organisations and citizens. All these aim to bolster democratic resilience from within. The package will be drawn up in close coordination with other ongoing initiatives. It will also be able to take into account several democracy-related proposals made by the Conference on the Future of Europe as regards citizen engagement in policy making. It will be fully consistent with the Rule of Law report, the upcoming anti-corruption package and measures to further increase transparency, and fully compliant with the Charter of Fundamental Rights.

Problem the initiative aims to tackle

Covert interference by countries outside the EU poses risks to the EU as a democracy, weakening its democratic institutions and processes as a whole. The issue of covert outside interference in the European democratic space and elections has been on the EU agenda for many years. The current legal framework for addressing this is based on national rules on the transparency of interest representation – such as rules on lobbying and

other activities aimed at influencing public decisions or the democratic sphere and using different channels or media (public relations, academia and research, event organisation etc.)

To increase public accountability and transparency in the decision-making process, rules in Member States frequently require information, often through a transparency register, from entities providing 'interest representation services' paid for or directed from countries outside the EU. However, Member State measures on interest representation services are very fragmented, notably measures concerning due diligence and registration requirements for interest representation service providers. Gaps and loopholes also exist in monitoring and enforcement arrangements. The fragmentation is likely to increase, as Member States are considering further national measures in response to the heightened perception of risk connected specifically with interest representation services paid for or directed from countries outside the EU. This situation raises issues of legal certainty and requires complex compliance efforts and additional costs for relevant service providers.

In the run-up to the 2024 EU elections and beyond, there is a need to support a broad turnout and inclusive participation with particular attention to under-represented groups), and free and fair elections¹. In addition, the 2022 State of the Union address referred to the need not just to protect our democracies from external threats but also to strengthen them from within. To that end, there is a need to enhance the security, integrity, and resilience of elections. Incidents – including cyberattacks on electoral processes and infrastructures, campaigns candidates or political party infrastructure – have the potential to undermine the integrity and fairness of the electoral process. They can also damage citizens' trust in their elected representatives, a trust which relies on free and fair elections.

Democracy is also about the richness of participatory practices, effective civic engagement and respect for democratic standards, fundamental rights and the rule of law. Thus, a strong and enabling civic space is critical for the resilience of our democracies. Civil society organisations act as watchdogs when democratic foundations and institutions are threatened. They hold governments to account, protect and promote fundamental rights and, among other things, protect our societies from undue influence by combating disinformation. Similarly, active and engaged public participation, including through deliberative processes, is essential to the quality of democratic life.

Basis for EU action (legal basis and subsidiarity check)

Protecting and strengthening European democracy against covert foreign interference raises challenges that cannot be addressed by national or local action alone. Action at EU level is needed for the proper functioning of the internal market and to protect the values spelled out in Article 2 of the Treaty on European Union and ensure a consistent and solid democratic environment for voters at European elections across the EU.

Interest representation services have a cross-border dimension to be addressed by legislation at EU level. Concerning the principle of subsidiarity, without action at EU level, the differences between Member States' transparency requirements are likely to widen further with the adoption of new initiatives in some Member States on interest representation services paid for or directed from outside the EU². This would result in obstacles for the provision of such services. Article 114 of the Treaty on the Functioning of the EU would serve as a legal basis for doing away with regulatory differences between the Member States. A legal instrument (directive) would introduce common transparency and accountability standards for interest representation services directed or paid for from outside the EU, to contribute to the proper functioning of the internal market, and to protect the EU democratic sphere from covert outside interference. Doing this would support awareness in the context of the provision of these services.

A recommendation on covert interference from non-EU countries would complement the directive establishing harmonised transparency requirements for the provision of services from outside the EU. Specifically, it would provide for additional non-binding measures to tackle the issue, including awareness raising, and promoting best practices. Given the cross-border nature, diversity and impact of the activities in question, the situation cannot adequately be addressed at Member State level only.

A recommendation on secure and resilient electoral processes and the upcoming elections to the European Parliament will seek to ensure free and fair elections and support their efficient conduct. The Commission Recommendation will take further steps to promote broad and inclusive participation in elections and to bolster democratic resilience overall. The recommendation will be also carefully coordinated with existing initiatives (e.g. those falling under the umbrella of the European Democracy Action Plan; the 2020 citizenship report; and the

¹ As mentioned in the 2019-24 priority 'A new push for European Democracy' and highlighted by the Commission in many policy documents and in the final proposals of the Conference on the Future of Europe.

² This is understood to cover countries outside the European Economic Area (EEA).

2021 package on reinforcing democracy and integrity of elections (including the proposed regulation for the transparency of political advertising, the proposed Council directives on the electoral rights of EU mobile citizens in European Parliament and municipal elections, and the proposed recast regulation on the funding of European political parties and foundations). It will support citizen empowerment and help build more resilient democracies across the EU, with a particular focus on the upcoming 2024 elections to the European Parliament, but also beyond those elections.

A further recommendation on civic engagement starts from the premise that civic participation, understood as engagement of civil society actors and citizens on matters of public interest, is only effective in an enabling, safe and supportive environment. The recommendation is aimed at helping Member States to frame the promotion of civic engagement in connection with the protection of democracies and respect for fundamental rights. It would therefore reflect the need to ensure a common level of protection and engagement with these actors in our democracies across the Union (and beyond), as the existing challenges cannot be addressed solely at Member States level. This Recommendation will also draw on the experience of the Conference on the Future of Europe.

Legal basis

Art. 114 of the Treaty on the Functioning of the European Union (TFEU) for the directive / Article 292 of the TFEU for the recommendations

Practical need for EU action

Foreign interference in democratic processes poses challenges for Member States and the EU which need to be addressed by a coordinated approach at EU level. Addressing foreign interference effectively requires putting in place uniform measures based on clear criteria and accompanied by strong safeguards to prevent abuses against foreign entities with a legitimate agenda.

B. What does the initiative aim to achieve and how

The objective of the 'Defence of Democracy' package is to bring together legislative and non-legislative measures to strengthen resilience to covert foreign interference in our democratic life and encourage civic engagement in our democracies.

The Communication introducing the package will present the components of the package and the links with other related initiatives. It will also follow up on the commitment to review the 2020 European Democracy Action Plan, including to identify areas for possible further action.

The package will include a legislative initiative strengthening the resilience of the EU democratic space to foreign interference (to curb the influence exerted through covert interest representation services paid for or directed from outside the EU) and other non-legislative support measures. These are expected to include a non-legislative initiative to complement the legislative initiative on foreign interference, a recommendation on secure and resilient elections, and a recommendation on civic engagement.

The initiative seeks to close possible loopholes that could be used by covert foreign actors to interfere in EU's democracy and to better prepare all concerned – institutions and citizens – to identify and face this threat.

The goal of the legislative proposal is to address these risks and to contribute to the proper functioning of the internal market by laying down harmonised rules for service providers providing interest representation paid for or directed from outside the EU. It will: (1) tackle internal market obstacles related to the negative impact on economic operators, (2) increase legal certainty; (3) reduce fragmentation of the rules on provision of interest representation services paid for or directed from outside the EU; and 4) close regulatory gaps in cross-border situations. It will also remove certain obstacles linked to the inconsistent regulatory requirements, for example by supporting cross-border supervision and enforcement by competent authorities.

By enhancing transparency and accountability, the directive will also aim to promote institutional trust and democratic values in the EU and protect the EU democratic sphere from covert interference in democratic processes.

A recommendation on covert interference by non-EU countries addressed to Member States, national and EU political parties and possibly other entities, would complement the proposed directive with further measures to tackle the issue.

A recommendation on secure and resilient electoral processes and the 2024 elections to the European Parliament will be addressed to Member States, national and EU political parties, and potentially other entities. It will advance the Commission's new push for European democracy and promote free and fair elections, and aim to: (1) prepare for the upcoming 2024 elections to the European Parliament, for example by supporting broad and inclusive participation in elections, to ensure the efficient conduct of such elections and further enhance their European nature; (2) promote resilient and secure elections at EU, national and local level; and (3) support a

<p>culture of democratic participation in the EU beyond elections.</p> <p>A further recommendation on civic engagement would look at civil society organisations and citizen engagement in policymaking. It would promote measures to support broad and meaningful participation by civil society and citizens. To enhance the inclusiveness and effectiveness of civic engagement, it would aim to encourage Member States to create an enabling environment for civil society and citizens as a pre-condition for their meaningful participation. It would propose measures framed within key guiding principles such as transparency, openness, equality and inclusiveness and accountability. It would also provide concrete guidance on the processes and tools for effective civic engagement.</p>
<p>Likely impacts</p> <p>The initiative is expected to make a positive contribution to strengthening the resilience of our democracies and deepening the action of the European Democracy Action Plan to promote free and fair elections, and foster an enabling civic space and citizen participation that can bolster democratic resilience from within. It would also improve the conditions for establishment and functioning of the internal market for certain market players by harmonising requirements for providers of interest representation services paid for or directed from outside the EU, which may have a significant impact on public opinion and the democratic sphere. These requirements would in turn also protect the EU democratic ecosystem. The initiative would also have a positive impact on enhancing integrity, transparency and trust in the EU public sector.</p>
<p>Future monitoring</p> <p>Where appropriate, this initiative will be accompanied by benchmarks to make it possible to measure progress, based on information from Member States and from private, academic and civil society stakeholders.</p>
<p>C. Better regulation</p>
<p>Impact assessment</p> <p>No impact assessment is planned. The package of initiatives will, however, build on the results of a call for evidence, a public consultation, targeted consultation events and Eurobarometer survey results. It will be accompanied by an analytical staff working document that will be backward- and forward-looking, provide evidence, define the problem, look at different options and present their impacts.</p>
<p>Consultation strategy</p> <p>For this initiative, the Commission is inviting citizens and stakeholders, both in the EU and beyond, to provide views and input through this 'call for evidence'³. Building on this, the Commission will collect the views of a range of stakeholders, including stakeholders from civil society, research and academia.</p>
<p>Why we are consulting?</p> <p>The consultation aims to gather views, arguments and underlying information and analysis in a transparent and participatory way, to give the Commission a comprehensive overview of stakeholder perspectives on the risks, gaps and required at EU level.</p> <p>For the directive and the recommendations, a consultation strategy is being implemented to collect materials and data that are already available, and to gather evidence and data on the specific problems addressed by the initiative, for example by soliciting stakeholder views on the policy approach(es) and its/their impacts.</p>
<p>Target audience</p> <p>The consultation will be open to a wide range of public and private stakeholders, including: the research community and academia; representative organisations of relevant sectors of the business community (e.g. lobbying and public relations agencies); civil society organisations; relevant professional and industry organisations; subject matter experts in relevant fields; relevant national authorities; political parties representatives and relevant international organisations and standard setting bodies, such as the OECD and the Council of Europe, as well as citizens of all ages.</p>

³ Replies will be possible in all 24 EU languages. The main communication channel will be the 'Have your say' portal on the Europa website.