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# The rise of China and EU vulnerability

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## Abstract

For well over a decade, the rise of China is increasingly affecting the global balance of power. Keohane and Nye's classic work on interdependence explain that asymmetrical interdependence is an important source of power. Yet China's exercise of power affects the EU in a more complex manner than the US. Even if it is an integrated political system, the EU has specific features that can exhibit distinct vulnerabilities. This article substantiates how China uses three types of power (compulsory, institutional and ideational), through various means ranging from FDI, disinformation, cyber-attacks, the bypassing of the EU and of elected representatives, to reach specific targets (critical infrastructure, civil society, national governments), and affect several policies (transport, telecommunication, health, border control, higher education). Beijing's foreign policy in the EU and its neighbourhood represents an attempt to take advantage of EU's vulnerabilities (its diversity, uncertain cohesion and the legitimacy requirement) with the ultimate consequences of weakening the relevance and the legitimacy of EU institutions and democracy. The paper suggests that EU's resilience, in the specific context examined here, relies on three key aspects: (1) the EU and its member states ability to identify the multilevel, multiform and often intertwined threats of Chinese foreign policy to its economy (and strategic autonomy) and democracy; (2) the EU member states' cohesion achieved inter alia through an appropriate level of stringency of policies and the use of the duty of loyalty, (3) and a strengthening of EU integration and EU external differentiation.

## Keywords

China | Cohesion | Democracy | Differentiation | EU | Integration |  
Interdependence | Loyalty | Power | Vulnerability

## Introduction

For well over a decade, the rise of China is increasingly affecting the global balance of power (Nye 2020). This paper takes as its starting assumption that China pursues a strategy of increasing its relative power, by building its own capabilities and weakening what it sees as its adversaries. Part of this rise in China's power comes through increasing interdependence. Keohane and Nye's classic work on interdependence shows that the conventional notion of power lacks precision. They note that asymmetrical interdependence is an important source of power (Keohane and Nye 2012). Yet whereas Keohane and Nye do recognise the existence of other forms of power than economic power, their analysis of interdependence tends to focus on the economic dimension, both as a means of exercising power and as a consequence of this exercise. This primary focus on economic power is also visible in Nye's (2020) article *Power and Interdependence with China*. We may also note that Keohane and Nye have approached the concept of interdependence from the US perspective. The European Union (EU) is not a state and may experience distinct forms of asymmetrical vulnerability interdependence.

China's exercise of power affects the EU in a more complex manner precisely because the EU is not a state and, even if it is an integrated political system, has specific features that can exhibit distinct vulnerabilities. The EU is a contested political system, with drawn-out decision processes that often result in muddled compromises. China with its authoritarian ideas and model of governance can, on the other hand, present itself as a more efficient alternative. In today's Europe, there may also be a general underestimation of Chinese power and its ability to influence the EU in order to undermine the functioning of democracy and the future of EU integration.

EU-China's interdependence has increased significantly over the past two decades. China's rapid development and its central role as a driver of globalisation have indeed resulted in expanding economic ties with the EU: between 2000 and 2019, the volume of trade expanded nearly eightfold to 560 billion euros (Zenglein 2020). As Europe is now a crucial export destination for Chinese products, Beijing is dependent on a growing European demand for products made in China. As for the EU, it critically depends on Chinese imports in strategic sectors such as chemical and electronics sectors, 'mostly on components produced in technologically less sophisticated areas of the value chain' (ibid) as well as pharmaceutical and medical products, as the Covid-19 crisis has demonstrated. Yet the rise of China is not only challenging EU's competitiveness (Oziewicz and Bednarz 2019), but is also challenging the EU-based political order. China's fast growth coupled with increased EU interdependence raises concerns about the EU's resilience and its ability to deliver solutions to pressing problems of differentiation, democracy and legitimacy. Indeed the EU 'is a distinct form of political entity with an unprecedented system of governance that both draws on and defies statist logic'. However, as Fossum emphasizes, 'the analytical tools for clarifying the relationship between differentiation, dominance and democratic

legitimacy have not been adequately established' (Fossum 2019). A new framework is needed to analyse Chinese influence on the EU and identify EU's institutional vulnerabilities.

The objectives of this research paper are to conceptualize the exercise of China's power under interdependence and to conceptualise the reactions of the EU to it, considering EU's institutional specificities and vulnerabilities. This paper (1) first addresses theoretical and conceptual issues focusing on interdependence, vulnerability and differentiation. (2) Section two identifies the types of power, or forms of Chinese influence that affect EU policies. Section two shows that China impacts the EU in three ways: (a) it diminishes EU's political cohesion; (b) attempts to compromise EU's legitimacy, (c) and increases China's leverage. The policies examined include trade, transport, space technology, telecommunication and connectivity, higher education, hybrid threats, health policy, border and customs controls. The paper does not directly address Chinese increasing military power, although reference is made to its military Civil Fusion programme. (3) The third section reviews EU answers to these challenges, and questions the extent to which integration and differentiation can remedy EU's vulnerability. By way of conclusion, the article suggests that the EU could increase its resilience by focusing on three key aspects: (1) the EU's and its member states' awareness (their ability to identify the multilevel, multiform and often intertwined threats of Chinese foreign policy to its strategic autonomy and democracy); (2) the EU member states' cohesion achieved inter alia through an appropriate level of stringency of policies and the use of the duty of loyalty, (3) and a strengthening of both integration and extending its territorial reach beyond its bounds (external differentiated integration). The paper points to the need for further research in order to clarify the conditions under which differentiation increases or decreases EU's resilience to a great power under conditions of complex interdependence.

## **Theoretical and conceptual framework**

The interdependence analytical framework posits that a state can exercise power over another state through a dominant position arising from an asymmetric interdependence between them. Keohane and Nye define interdependence as one step more than interconnectedness: in a situation of interdependence, interactions generate significant and costly effects (Keohane and Nye 2012: 232; Nye 2020). Costly effects refer to effects that are consequential, in a positive or negative way, and that are affecting a broad range of aspects, be they economic or in terms of values (e.g. moral, aesthetic, personal security, or ecological integrity). Keohane and Nye further distinguish between consequences of interdependence varying from sensitivity to vulnerability, with increasing implications for dominance. While sensitivity refers to the costly effects of cross-border flows on societies and governments, within an unchanged framework of basic policies, vulnerability is another step further in cost. It refers to the costs of adjusting to the change indexed by sensitivity, by changing one's own policies. The authors thus propose to measure vulnerability interdependence 'by

the costliness of making effective adjustments to a changed environment over a period of time'. The costs of adjustment can actually be particularly high for the EU whose institutional basis departs from that of a state in several respects, and where these costs require further in-depth investigation.

Mainstream theories on the role of the EU in the world focus on various dimensions: opportunity, presence, capability (Bretherton and Vogler 2006) or on the normative power of Europe (Manners 2006; Aggestam 2008). There is a need to add the dimension of vulnerability which was strikingly salient during the series of crises that the EU has recently faced, affecting its functioning and stability and potentially its role in the world: the Eurozone and refugee crises, the Ukraine conflict, the Covid-19 crisis and not the least Brexit, as well as the rise of populism. The EU's interdependence with a growing China is just another critical situation that challenges the EU-based regional order. EU vulnerability can be described as deriving from institutional characteristics: the EU's internal diversity and its distinct pattern of differentiation, the need for internal cohesion, and – especially as a non-state entity – the legitimacy requirement. To understand how integration and differentiation factor in the relation between the EU and China, it is first necessary to specify how China exercises power over the EU.

Barnett and Duvall (2005) have proposed a typology of power that allows to analyse power beyond the realist paradigm, and can also be used to get a more fine-grained and complete conception of EU vulnerability. Out of the four dimensions of power that they identify: compulsory power, institutional power, ideational power and structural power, the three former types are useful to characterize the levers of power that China uses to influence the EU.

The (1) first dimension of power, compulsory power, concerns relations of interaction of direct control by one actor over another to shape directly the circumstances or action of another (ibid: 43 and 49). The economic power of China relates to this first dimension of power and has proven effective, whereas the EU and European states seek investments after the financial crisis, which had less effect on China. Chinese economic power is especially concerning in critical areas where dual use technology is at stake and leads to hybrid threats.

This type of power (compulsory power) can take advantage of one of EU's vulnerabilities, which is its diversity, in particular the economic asymmetries between member states (deriving from various GDP and differentiated impacts of the financial crisis) and the relations between different member states and China. Such asymmetry does not create the conditions for a level playing field, and can lead some member states to favour a partnership with China to the detriment of the EU's economic security or strategic autonomy. The lack of cohesion of the EU is manifest in the diverse positions of member states with regard to China's Belt and Road Initiative (BRI). Yet, as argued by Barnett and Duvall (ibid: 50), compulsory power is not limited to material resources; it also entails symbolic and normative resources. The latter includes for example the shaming of a country for not respecting fundamental norms. Again, the diversity of the

EU, this time in terms of political preferences, might play in favour of China: the more democratic states will be the object of that kind of attack, while China will increase its support towards member states defying the EU's political order like Hungary.

The (2) second dimension of power, institutional power, is exercised through diffuse interactions, and may be defined as actors' control of others through the formal and informal institutions that mediate between A and B (ibid: 51). In this paper, institutional power refers to competing regionalisms, and efforts by China to use bilateral cooperation to circumvent and weaken the existing EU-based regional cooperation, affecting EU's cohesion and democratic legitimacy.

The (3) third dimension of relevance is ideational power defined by Carstensen and Schmidt (2016: 320) as the capacity of actors to influence actors' normative and cognitive beliefs through the use of ideational elements. This dimension of power takes shape through diffuse discursive practices and systems of knowledge. China's deployment of a normative diplomacy, and its attempts to distort EU's political standards, and people-to-people diplomacy in the EU correspond to ideational power. The EU's political and economic diversity is also definitely a vulnerability in this context.

The three forms of power, compulsory, institutional and ideational, operate simultaneously and can both intersect and reinforce each other. This paper claims that Chinese foreign policy, using these three types of power inside the EU's borders and in its neighborhood, takes advantage of EU's institutional vulnerabilities to weaken the EU's cohesion, its democratic legitimacy, and to increase Chinese leverage.

How then can the EU respond to the exercise of power of China and the various means it concretely deploys as analyzed in the next section: creating alternative institutions, using bilateral diplomacy, shaming democracy, multiplying foreign direct investment (FDI), launching cyber-attacks? The EU is a distinctly differentiated system that is vulnerable to external forces, due to its very internal make-up. Differentiation can be understood from a more legal approach that emphasises exceptions to EU rules enshrined in primary and secondary law granted to member states, associate countries such as the European Economic Area (EEA) states and candidate countries (Leuffen et al. 2012). This paper, however, relies on a more institutional approach that focuses on the relationship between EU differentiation and EU internal and external vulnerability. This paper therefore pursues a power-political understanding of differentiation. In the case of an external influence, the EU is particularly vulnerable because many competences remain with the member states. The EU has a monetary union, but no attendant fiscal union and lacks its own action capacity. The EU is internally constrained by the manner in which member states control its resources, and by the fact that on many core state powers member states must agree. This adds to the EU's vulnerability to external powers. The EU has several options to strengthen its resilience, which relate to integration, differentiation, and to legal action through the Court of Justice of the European Union (ECJ). The strengthening of integration of some



policy areas could appear as a logical answer; however, in the very specific areas at stake, e.g. security and strategic autonomy, such deepening is not an unquestionable option for member states. Forms of external differentiated integration that associates EEA countries and EU neighborhood countries could allow increasing EU's resilience. China is indeed, through various forms of influence, driving a wedge between member states and attempting to compromise its governance model.

### **Forms of Chinese influence in EU policy areas**

As already noted, China's influence in the EU manifests itself through economic, institutional and ideational power in a wide range of policies related to trade, transport, space technology, telecommunication and connectivity, higher education, hybrid threats, health policy, border and customs control. The BRI, and the associated FDI, constitutes the main channel for Chinese influence on the EU. Chinese economic power has been especially influential in the aftermath of the 2008 financial crisis. Beijing has been targeting countries and territories that have been strongly affected by the crisis, and those which need to boost their economies to support their respective political agendas. EU members participating in the BRI include Poland, Greece, Italy, Hungary, Czechoslovakia, Croatia, Bulgaria, Latvia, Portugal, Romania, and Slovakia (Brown 2021: 2). However, investments are also made in other EU countries outside the official framework of the BRI: between 2000 and 2017, the UK received 42.2 per cent of Chinese FDI, Germany 20.6 per cent and France 12.4 (Zenglein 2020). Economic dependence covers several aspects and does not only relate to FDI but includes trade, investment, supply chains, corporate exposure, and innovation (ibid). EU's critical strategic dependence on China is most pronounced in the electronics sector. These dependencies vary amongst EU member states. Germany (mainly through its automotive market) is the member state that is most export-dependent on China, followed by Finland and Ireland. Germany accounts for 48.5 per cent of EU exports to China, 4.6 times more than France. The paper takes into account the export dimension of economic dependence, but focuses more on the import dimension and its impacts on political dependence of EU member states.

#### *Economic power and strategic infrastructure*

Chinese investments in Europe are diverse, but the transportation, construction, and infrastructure sectors represent a large share and were the top targets in 2020 (Kratz et al. 2021). Investments in seaports give Beijing the possibility to monitor and control activities in key logistical nodes. Greece is of major significance to China, which considers the Port of Piraeus as 'the gateway to the Balkans and southern Europe' (The Guardian 2014). The Chinese shipping company COSCO, one of the world's largest shipping companies, acquired the management rights to half of Piraeus in 2009, and since 2016, COSCO owns 51 per cent stake of the Piraeus Port Authority and is hoping to acquire an additional 16 per cent stake (Reuters 2021). In Zeebrugge, COSCO

Shipping Ports bought 24 per cent of the port's capital in 2014, and in 2018, COSCO officially received the concession of the container port. The Chinese group is also active in Antwerp where it owns a 20 per cent stake, and in Rotterdam since 2016 when it acquired a 35 per cent stake of the terminal.

Airports also represent important logistic nodes. Chinese companies have acquired stakes in London's Heathrow (ten per cent), and in Frankfurt's Hahn Airport (82.5 per cent). The degree of risk varies from traditional security risk (by virtue of the proximity of a military or dual use infrastructure) to an economic risk, but key logistic nodes have by definition a strategic dimension. There are instances where governments have blocked Chinese initiatives. One such example, based on security grounds, is the French Toulouse airport, whose proximity to Airbus gives it a strategic importance. After the Chinese company Casil bought 49.9 per cent of Toulouse airport's shares in 2015, the French Court of Auditors in 2018 warned of the lack of experience of the Chinese company in airport management, its lack of financial transparency, and its links with the Chinese government (Cour des Comptes 2018). The French government thus opposed the option of selling the 10.01 per cent share to Casil, which would have granted Casil a majority stake in the company. Casil finally sold its shares to the French company Eiffage in December 2019. Toulouse, which is already the city of the space industry, now hosts the Space Command, and was chosen in 2021 to host the new North Atlantic Treaty Organisation (NATO) center for excellence in military space and to become a European reference. Chinese attempts to control airports also occurred in the autonomous territory of Greenland, where the US has a military base in Thule, prompting the Danish Government, which retains competence over security and defence policy, to rule out the prospect of China buying at least two airports by supporting Greenland through the acquisition of stakes and a loan guarantee (Pelaudeix 2018).

The Chinese connectivity project also includes land infrastructure. The project of a line linking the Norwegian port of Kirkenes (to Asia through the Northeast Passage) to Rovaniemi in Lapland is attracting China's attention, as well as the last leg of this 'Arctic corridor': a 100km-long-undersea tunnel between Helsinki and Tallinn. Despite these examples of European pushbacks, we see clear examples where China has secured control of strategically important items. Further south, in Central and Eastern Europe, Hungary used the confusion of the Covid crisis to pass a contested legislation involving FDI with China: the law classifies the details of the Chinese financed railway between Budapest and Belgrade. It maintains secrecy over the clauses of the agreement, allegedly to help secure a loan from the Chinese Export-Import Bank to finance the project (Reuters 2020). The railway is a strategic connection between the Balkans and Western Europe.

In addition to transport, China's economic power is exercised through the control or monopoly of certain resources, which makes the EU highly vulnerable. This is typically the case of rare earth elements (REE) of which China provides 98 per cent of EU supply (European Commission 2020a). China has already used this economic leverage against

Japan during the Senkaku islands incident in the East China Sea in 2010 amid competing claims to sovereignty. In Europe, China secured an even stronger control of REE world production when the Chinese state-controlled mining company Shenghe in 2016 purchased a 12.5 per cent share of the Australian company Greenland Minerals and Energy Ltd, in order to exploit a REE site in Greenland. More importantly, in August 2018, the two companies signed an memorandum of understanding (MoU) allowing Shenghe to make an equity investment in the project and to acquire all REE output produced at Kvanefjeld to process it for direct supply to the industry. Even if today's China respects the rulings of the WTO dispute settlement body on its REE export restrictions (after the EU filed a complaint with Japan and the US), China already controls the market prices. As such, it can thwart existing or future mining exploitation profitability, as it did with the Mountain Pass mine in the US. As the EU is trying to increase its critical raw material resilience (ibid), this consideration needs to be factored into any financial calculations regarding the potential exploitation of REE reserves in the EU.

Amongst technology of strategic importance for its dual use is space technology. Research collaborations with Chinese counterparts represent risks, which are not always acknowledged and have been neglected in the past. Mercator Institute for China Studies (MERICS) reports the example of China's participation in the EU's Galileo satellite system: it allowed the Chinese parties (including some of China's largest military aerospace manufacturers) to retain ownership of resulting technologies and intellectual property after Beijing left the partnership. China has since built its dual-use satellite navigation system, Beidou, which rivals Galileo and boosts the PLA's geolocation and communications capabilities (Kratz et al. 2019: 17). In Sweden and Finland, the potential use of civilian observation facilities is questioned (Pelaudeix 2018): in Finland, an agreement was signed in April 2018 with China to establish a joint research centre for Arctic space observation and data sharing services. In Sweden, a space observation research centre was established in 2016, i.e. the China Remote Sensing Satellite North Polar Ground Station (CNP GS). It is based on the collaboration of the Swedish Space Corporation (SSC), which is owned by the government, and the Chinese satellite station, and was already said to have improved China's capability to access remote sensing data in the Arctic region. One year later, the Swedish Defence Research Agency (FOI), under the Ministry of Defence, confirms that the nominally civilian cooperation with China could ultimately be controlled by the military (South China Morning Post 2019).

FDI in dual-use infrastructure is raising concern not only for soft security, but also with regards to hard security, especially since China is developing a Military Civil Fusion programme. Although there is no clear direction yet on the way China is practising Military Civil Fusion (Jash 2020: 58), some analysts deem that China's leverage in the EU is already affecting NATO efficiency, its 'readiness, interoperability, and secure communications' through its control of 'a growing portion of critical European infrastructure—from telecommunications networks to port facilities' (de Maizièrè and Mitchell 2021).

*Compulsory and ideational power in Covid times: from assistance to disinformation, cyberattacks and shaming*

Not only economic power, but also cyber-attacks and ideational power have been used by China during the Covid-19 crisis. The Covid-19 crisis has seen no pause in the unfolding of Chinese soft power in Europe, and it has even marked a new step in Chinese attempts to impact economic development in the EU, EU cohesion and democracy. During the pandemic, China positioned itself as a key protector of EU citizen's health and life by providing medical equipment – masks then vaccines – as well as expertise in fighting the spreading of the virus. It has at the same time strengthened its political influence in the Central and Eastern European countries and advanced its interests in strategic sectors of the BRI. The most visible aspect of Chinese diplomacy in Europe during the Covid-19 crisis was its health diplomacy. Whereas EU member states remained discreet about their assistance to China when the crisis hit Wuhan, China provided assistance in the form of advice and equipment to EU member states and European countries and widely publicised its support and the positive reception of European actors (for example, the President of the Czech Republic's credit to China) (Fürst 2020: 19). China launched a charm-offensive diplomacy: shipments of medical equipment to some European countries displayed specific cultural messages. In Portugal boxes read verses from Pessoa, Aristotle was mentioned in Greece, while in Slovakia a message read: '[i]n good and in bad, in wind or in rain, China and Slovakia will always be helping each other' (Turcsányi and Šimalčík 2020: 62).

China quickly positioned itself as a secure supplier, thus as a reliable provider of human security on EU's soil, while the EU had poor cooperation and coordination mechanisms in place in terms of health equipment supply, and in terms of control of borders. The political diplomacy that the Chinese government has been developing during the mask scarcity period, then during the vaccine scarcity period, consisted of promoting the Chinese model of handling the health crisis and at the same time of harshly reacting to any critical commentary about its handling. China's diplomacy has first shown a great variety of attitudes depending on the European states: from flattering, incitation, to rebuke or an aggressive stance. The increase in the aggressive tone of Chinese diplomacy in Europe started before the pandemic crisis, but in France this tone was used for the first time during the Covid-19 crisis and resorted to disinformation: a post on the Chinese embassy website in France claimed the French were 'leaving their residents to die of hunger and disease', and resulted in a strong reaction from the French Foreign Ministry (Julienne 2020).

Chinese disinformation is more efficient if it is relayed by European states themselves. The unpreparedness of the EU was instrumentalised by some European states such as Serbia, which is reported to have declared a state of emergency when it had only 27 confirmed Covid-19 cases and harshly criticised the EU for its lack of solidarity (Hartwell and Vladisavljev 2020). An alleged lack of support of the EU to Serbia, circulated by the government, is contradicted by several sources. According to the EU, the EU provided 1.539 billion in assistance to Serbia through the Instrument for Pre-

Accession Assistance for the period 2014-2020 (European Commission 2021). Serbia's European Integration Ministry reports that China has pledged 56 million euros to Serbia since 2009, but has only delivered about 6.6 million euros. A report by the Center for Strategic and International Studies in Washington DC reports that China is only the fifth-largest donor to Serbia, and that the EU is Serbia's largest donor by far, followed by Germany, the US and the United Nations (Conley et al. 2020: 4). Yet the Serbian population is convinced that China is more supportive of Serbia than the EU (Hartwell and Vladisavljev 2020). While the European Commission indicated it has secured up to 2.6 billion doses of Covid-19 vaccines, President Xi Jinping declared China was ready for vaccine cooperation with Central and Eastern European (CEE) countries and could claim that a Chinese company gave Serbia one million doses of vaccines (Xinhuanet 2021).

China's health diplomacy is especially targeting countries and cities of importance for the BRI, and thus paving the way for more FDI and attempts of firm acquisitions. COSCO made donations to two Italian cities of importance to the BRI. China's State Grid owning a 24 per cent share in ADMIE, the Greek operator that will construct two underwater electricity cable links between Greece and Crete, gave half a million masks to Greece (Tonchev and Bentis 2020). In terms of takeover, an example is the attempted takeover of Germany's CureVac which is developing a Covid-19 vaccination (Hrubes 2020).

An intensive communication campaign was launched by China, such as in Italian cities of significance to the BRI. The campaign supported the idea that China was more efficient and helpful than the EU and European states to fight the Covid-19 crisis. The criticism of European states' handling of the crisis was not only addressed to Western actors, but also to Chinese citizens in Europe and in China. This is all but a trivial message: the underlying argument that the EU has failed to secure the safety of its citizens hinges on the very notion of security, and carries with it the idea that the liberal-democratic model has performed poorly compared to what China's authoritarian governance model can offer.

The 'Action Plan on health collaboration' that Italy signed when it formally joined the BRI on 23 March 2019, is only one of 19 MoUs signed on the occasion of Xi Jinping's visit (Italian Government 2019). One of these MoUs could question the strategic autonomy of the EU in terms of information technology: signed between the Minister of Economic Development, the Minister of University and Research, and the Minister for Technological Innovation and Digitization, deals with innovation in technology and public procurement. The MoU reads that:

adequate formulation of public procurement can stimulate innovation and accelerate the effectiveness and efficiency of public goods and services to address complex social and economic challenges [...] To this end, [the parties] believe that it is necessary to develop *maximum synergy and cooperation in innovation*

*market development policies and the ability to orient the technological process towards socially relevant objectives* [author's emphasis, translated from Italian].

(Italian Government 2020)

In addition to channeling investments, Chinese health diplomacy contributes to humanize the BRI – which is increasingly questioned in the EU – and the 17+1 forum, a forum dedicated to the cooperation between China and CEE countries (Secretariat for Cooperation between China and Central and Eastern European Countries 2013). In Romania, where the Silk Road Community Building Initiative was launched in September 2019, the Chinese donations of medical materials made the BRI look like a human dedicated venture. In Serbia, a government official declared: '[w]e owe great thanks to the Chinese people, authorities and experts, for showing us that the BRI and the "17+1" mechanism are not just about the economy, but the wellbeing of the whole world' (Xinhuanet 2020a).

Finally, China resorted to the use of more compulsory means and is reported to have launched cyber-attacks on EU hospitals and dedicated computing centres, compromising the response against the pandemic. The EU Commission President Ursula von der Leyen, on the occasion of the EU-China summit in June 2020, suggested that China may have been behind a spate of cyberattacks against hospitals in Europe during the coronavirus outbreak, stressing that the EU will not 'tolerate' such malicious activity (EURACTIV 2020).

### *Economic power and border control*

Infrastructure, technology, the health sector but also border control are targeted by China. The emergency context of the pandemic seems to justify a measure for customs cooperation with CEE countries led by China to 'ensure trade security and faster clearance' (Xinhuanet 2021). Xi Jinping suggests the establishment of a 'China-CEEC [CEE countries] customs information center and a focal point for customs clearance coordination for countries along the China-Europe Land-Sea Express Line': its land transportation route is a railway line, with Budapest in Hungary and Piraeus Port in Greece, respectively, at the two ends, and Serbia and Macedonia in the middle. Xi Jinping also proposes to cooperate under the 'Smart Customs, Smart Borders and Smart Connectivity Initiative' (Xinhuanet 2021). This is all the more intriguing given that the China-CEEC cooperation on customs would include EU member states, especially since the proposal does not mention any specific agreement with the EU. This bypassing of the EU would clearly have an impact on EU coordination. The ability to deal with this challenge could be said to testify to the capacity of the EU to manage its external vulnerability.

*Economic power: disruption and control over higher education and research*

Negative consequences of foreign interference in higher education and research can include stealing information, but also the influence on the content of teaching and publishing. In 2017, Cambridge University Press confirmed that it had complied with a Chinese request to make hundreds of articles in *China Quarterly* inaccessible within China, arguing that it did so to avoid its other publications from being barred after a letter from the journal's editor protesting against the move was published (The Guardian 2017). Chinese influence on higher education in Europe can also take indirect forms and have consequences for the security of the students. The new security law that was passed in Hong Kong during the pandemic had unexpected impact at Oxford University, where students specialising in the study of China are being asked to submit some papers anonymously to protect them from the possibility of retribution under the sweeping new security law introduced three months ago in Hong Kong (The Guardian 2020).

China recently made investments in higher education in the EU. One example is the French Brest Business School (BSS) which was bought by the Chinese company Weidong Cloud Education who now owns 70 per cent of the school (Atlantic Press Information 2020). BSS calls itself 'the first Franco-Chinese Grande Ecole'. The Master of Business Administration (MBA) China programme is in partnership with dozens of universities in China and sponsored inter alia by Huawei. BSS can also intensify its collaboration with African countries with the e-learning programme, which attracts students by reason of the 'double nationality Franco-Chinese' and aims at offering them access to Chinese universities (Jeune Afrique 2019). A striking aspect of this collaboration is the undermined institutional autonomy, as well as the use of a French institution to teach African students under the control of a Chinese company in the context of the geopolitical interests of China in Africa.

Another example is in Hungary. After hosting an MBA programme at Corvinus University funded by China<sup>1</sup>, the China-Hungary educational cooperation ramped up with the signing in April 2021 of an agreement on the establishment of a Chinese university in Budapest. Ironically, whereas the Central European University funded by the US citizen George Soros in Budapest was shut down in 2017 under a new Hungarian law, Hungary's law of Higher Education (commonly known as 'Lex CEU') (Hungarian Ministry of Justice 2017), Hungary is now supporting the establishment of a university funded by China. However, recent civilian protests in Budapest, supported by Mayor Karácsony, have prompted the Hungarian government, which is to face general elections next year, to withhold the project and propose a referendum to be held after the general elections (The Guardian 2021).

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<sup>1</sup> Information on the MBA programme can be found at Corvinus University of Budapest's website: <https://www.uni-corvinus.hu/main-page/programs/mba-2/fudan-corvinus-double-degree-mba/about-the-program/?lang=en> [accessed 28 July 2021]

*Economic, institutional and ideational power: Foreign Political Investments in the EU*

The political influence of China on the EU and its neighbourhood can be exercised through support to the leadership, institutional mediation or political parties' influence. Economic power often intertwines with political influence. The case of Serbia is telling. Ties between the Balkan country and China strengthened after the unfortunate bombing by the NATO forces of the Chinese embassy in Belgrade in 1999 and the refusal of Beijing to recognise Kosovo's sovereignty. As an EU candidate country, Serbia has to align with the EU on foreign policy issues, but this alignment has greatly decreased in recent years, shifting from 99 per cent harmonisation in 2012 to 57 per cent in 2019 (Novaković et al. 2020).

China's influence in the EU and its neighborhood in Covid times is enhanced by the 17+1 forum (Cooperation between China and Central and Eastern European Countries 2013). The forum that China established in 2011-2012 to speed up the development of the CEE countries was strongly activated during the pandemic. It intends to boost cooperation between China and these countries – into new fields such as digital economy, artificial intelligence, financial technology, life science and environmental protection. The forum involves 12 EU member states (Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Slovenia, Croatia, and Greece since 2019) and five non-EU nations (Serbia, Montenegro, Albania and Macedonia, Bosnia and Herzegovina), all candidate or potential candidate countries to integration. Through the 17+1 forum, videoconferences to share information about China's experience in containing the pandemic were held in Latvia, Poland, Romania, Bulgaria, Greece: here again, the political message insisted on China being an efficient and disinterested partner, acting for the benefit of humankind. China's assistance was judged against a perceived lack of solidarity from the EU (Rodrigues 2020: 54).

China intends to closely link the BRI with the 17+1 forum, which appeared in the context of the 'multilateral diplomacy' strategy launched by President Xi Jinping (Budeanu 2018: 4). President Xi Jinping suggests to 'align[ing] cross-regional cooperation with Belt and Road cooperation, making Central and Eastern Europe the first region where all countries have signed agreements on Belt and Road cooperation' (Xinhuanet 2021). Xi Jinping further proposes that 'China supports setting up a China-CEEC dialogue mechanism on e-commerce cooperation and a China-CEEC alliance in the public health industry' (ibid). The idea is to create a nexus of opportunities between health diplomacy, business, and technology. The 17+1 forum is institutionalised with a Secretariat within the Ministry of Foreign Affairs of the People's Republic of China. Before Greece joined in 2019, it was exclusively made up of post-communist countries strategically situated between the West and the East, a grouping which China expects to show cohesion (Budeanu 2018: 6). The apparently odd grouping of the forum does make sense when one considers that China uses it to destabilize the EU by developing strong connections with member states and gaining the support of EU neighborhood, while blurring the distinction between China-EU cooperation and China-CEEC



cooperation, which actually are two distinct mechanisms. In a keynote speech delivered on the occasion of the 2021 China-CEEC Summit, President Xi Jinping deems ‘China-CEEC cooperation is part and parcel of China-EU relations’ (Xinhuanet 2021); likewise, Wang Yiwei, Director of the Institute of International Affairs, and of the Center for European Studies at Renmin University of China states that ‘[...] the 17+1 initiative (China- CEEC cooperation) is an integral part of China-EU cooperation’ (Wang 2020).

While China envisages to elevate the 17+1 forum, from current level of prime ministers to that of the heads of state (Karásková et al. 2020: 11), it is all the more important to pay attention to information that tends to blur the line between EU projects and China driven projects. Wang deems the BRI ‘helps to promote a better regionalisation and integration of the EU’ paradoxically pretending that ‘the high standards of the EU do not work in some developing areas, where China helps to create conditions for their implementation so the EU can better play its role as a normative power’ (Wang 2020). Despite its ‘regional cooperation’ branding, the China-CEEC cooperation consists in high-level meetings and bilateral agreements (Budeanu 2018: 6). Furthermore, the EU remains the institution that democratically defines the terms and meaning of regionalism in its jurisdiction, but China is clearly attempting to create a breach in the EU through an initiative that can be labelled ‘competitive regionalism’. Should this divide solidify, we would see an increasingly differentiated EU through an external actor reorienting a group of member states’ loyalty towards it.

Another way to exercise political influence is to undermine democracy, for instance by bypassing national elected representatives. During the pandemic, the government of China has promoted two channels of communication, which are questionable considering the authoritarian nature of its current politics. On the occasion of the 2021 China-CEEC summit, held via video link, President Xi Jinping put emphasis on the interest to develop ‘sub-national level’ cooperation and to work with ‘sub-national entities’ in several areas such as business and education (Xinhuanet 2021). Engaging with the local level rather than national governments allows to deal with levels of governance, which are not necessarily as concerned with strategic issues. China thus promoted a ‘people-to-people’ diplomacy that has proven to be based on an exclusively top-down diplomacy controlled by the Chinese government: this was the case in Italy through twin deals with cities of interest for the BRI, in Portugal which witnessed an unprecedented expression of twinning agreements, and in Poland, at the demand of local governments themselves (Szcudlik 2020). Another example of top-down people-to-people diplomacy is the already mentioned role of Chinese enterprises in providing support in the fight against the Covid-19 in cities of interest for the BRI.

The second initiative encourages political parties to engage as partners of China in fighting the Covid crisis instead of democratically elected representatives of national governments. In addition to donations to political parties around the world, a ‘joint appeal on Covid-19’ was released by the Chinese Communist Party International Liaison Department. It claimed to have brought together over 230 political parties from around 100 countries, including Russia, Serbia, the Czech Republic, to endorse a

coordinated crisis response and praise China for its open and transparent handling of the pandemic (Xinhuanet 2020b). China Insight reports that Vojtech Filip, first Vice-Chairman of the Czech Parliament's Chamber of Deputies and leader of the Communist Party of Bohemia and Moravia (KSCM), expressed appreciation of China in his letter as he believed that the joint open letter initiated by China offers a way out of the dilemma for the world (China Insight 2020: 23). It is also reported that the ruling party in Germany, the Christian Democratic Union, was asked to sign the letter (Pongratz 2020: 26). This initiative constitutes another channel of influence that China uses in relation to the EU, which tends to blur other lines, those between political parties and elected representatives.

This section has shown how China uses three types of power (compulsory, institutional and ideational), through various means (FDI, disinformation, cyber-attacks, the bypassing of the EU and of elected representatives), to reach specific targets (critical infrastructure, civil society, national governments), and affect several policies (transport, telecommunication, health, border control, higher education), in an attempt to take advantage of EU's vulnerabilities (its diversity, uncertain cohesion and the legitimacy requirement), in order to ultimately destabilize the EU's functioning, its stability and democracy. The EU has not been unresponsive, yet the question is to what extent EU's responses are adapted to the magnitude of the challenges posed by the interdependence with an authoritarian country, and how do integration and differentiation factor in the relation between EU and China.

### **EU's adaptive measures: integration and differentiation in question**

Since about ten years, the EU has started to address China's detrimental influence on the EU, with a mixed success, made of belated responses, despite – in particular – the repeated warnings of the Commission, and some issues partially solved, or unanswered. The section that follows focuses on the EU's responses as a regional organisation (RO), and is not an assessment of the reactions of the member states themselves to the increased interdependence with China. It is organised around policy areas: health policy, FDI, higher education, cyber-threats, and border control.

#### *Health policy*

The health crisis has revealed that a low level of integration in a policy field could create a huge vulnerability instrumentalised by an external power. The Covid-19 crisis has sparked distinct reactions from member states regarding the future of the EU. Some called for stronger integration, such as the Netherlands advocating a European strategic autonomy and a European industrial policy (Dams et al. 2020: 46), or Sweden that asked to speed up the (then) planned legislation for investment screening. The EU has now taken the measure of the cost of interdependence in public health and the Commission has released a proposal for a new health agency, the Health Emergency Response Authority (HERA). The 750 billion euros plan for 2021-2027 was initially

blocked by Poland and Hungary, because the budget law included a clause that makes access to money conditional on respecting the rule of law. The adoption in July 2020 of the EU recovery plan testifies a remarkable resilience of the EU, in this particular situation.

### *FDI in strategic sectors*

With regards to FDI, a regulation has been adopted. FDI falls within the field of the common commercial policy where the EU has exclusive competence. The Treaty on the Functioning of the European Union already provides for conditions to restrict the free movement of capital, which are necessity and proportionality (Article 65 TFEU). In February 2019, the EU adopted Regulation 2019/452 that provides legal certainty for member states that maintain a screening mechanism for FDI or that wish to adopt such mechanism (European Parliament and Council of the European Union 2019). It is an enabling framework that lays down rules for cooperation and sharing of information on FDI between EU member states and the European Commission on the grounds of security or public order. FDI is defined in the regulation as investments ‘which establish or maintain lasting and direct links between investors from third countries including State entities, and undertakings carrying out an economic activity in a [m]ember [s]tate’. In the early stages of the Covid crisis, in March 2020, the EU issued a guidance to help member states implement the regulation on screening FDI. It entered into force 10 April 2019, but would not be applicable before 11 October 2020 only: ‘[t]he Commission urges [m]ember [s]tates to be particularly vigilant to avoid that the current health crisis does not result in a sell-off of Europe’s business and industrial actors, including SMEs [small and medium-sized businesses]’ (European Commission 2020c).

If it reflects a new attitude of the EU towards FDI, the regulation presents several shortcomings. The review and the adoption of measures preventing or conditioning a FDI is the ultimate responsibility of member states. The European Commission, which is conferred new powers, is only authorised to issue non-binding advisory opinions if the FDI affects EU interests. The regulation thus maintains a significant level of flexibility for member states to screen FDI. ‘Neither [m]ember [s]tate comments nor Commission opinions are legally binding on the [m]ember [s]tate recipient’ (Reisman 2020: 6). With regards to the types of assets, portfolios (which do not confer the investor effective influence over management and control of a company and are generally less likely than FDI to pose issues in terms of security or public order) are not covered by the regulation; but the Commission ensures that they ‘may be screened by the [m]ember [s]tates in compliance with the Treaty provisions on free movement of capital’ (European Commission 2020c). Another important limitation of the regulation is that it does not provide full coverage for the safeguarding of the public interests that it aims to protect: foreign investors can still get hold of critical infrastructure, critical technologies or any other asset mentioned in article 4(1), by buying it directly (de Jong and Zwartkruis 2020: 462).

The interests of member states can counteract the effectiveness of the screening mechanism, and their diverging preferences were already visible during the negotiations of the regulation, which showed disparate preferences about the need for closer scrutiny of third-country investments, as well as in the lack of response to the initial warning of the Commission. Indeed, the need for policy change in the area of FDI was already addressed by the European Economic and Social Committee back in 2011. However, member states were reluctant to launch a control procedure at that time. In light of increasing Chinese FDI, it is only in 2017 that three member states, namely France, Germany and Italy, called on the European Commission to review the rules for FDI into the EU and suggested to develop a European instrument to screen investment (European Economic and Social Committee 2017: 5-6). The possibility of a differentiated policy with a ‘multispeed option’ was envisaged as member states had become increasingly divided on the proper scope and mission of the EU as an institution but ‘several hurdles, some perhaps insurmountable, to multispeed cooperation on FDI’ appear under current treaty law (Lundqvist 2018: 1). The regulation is not externally differentiated: it has no EEA relevance and does not apply to Iceland, which has an extensive partnership with China, nor to Norway. This absence of external effects limits the scope of application of the regulation and the regulatory coherence inside the EEA.

The screening mechanism has been successfully used in a few cases, though, (e.g. LPE, Iveco, ISMT, Schmiedetechnik Plettenberg) in Italy and in Germany, involving the cooperation of several member states such as Sweden, France or the Netherlands (Kratz et al. 2021). The example of the acquisition by the Chinese company Vital of the industrial site of PPM Pure Metals in Germany in December 2020, however, is an example of failure of the screening mechanism to prevent a Chinese company’s control over a strategic site: PPM Pure Metals, which produced high purity minor metals including antimony, gallium, germanium, tellurium and their compounds and was previously part of Paris-listed Recylex Group, which was a supplier to the German military (ibid).

### *Higher education and foreign interference*

When it comes to interference in higher education, the Lex CEU which resulted in the Central European University (CEU) being forbidden to operate in Hungary, led to a ruling of the ECJ stating that Hungary has breached WTO law, EU law and the Charter of Fundamental Rights of the European Union ‘relating to academic freedom, the freedom to found higher education institutions and the freedom to conduct a business’ (Court of Justice of the European Union 2020). The ruling of the ECJ was acclaimed as an important moral and legal victory as well as a historic victory for academic freedom in Europe. Ironically, as explained in the previous section, now the Hungarian government is welcoming Chinese investments in higher education with the agreement with Fudan University, a decision that by virtue of the authoritarian nature of the current Chinese government, is problematic. Investments in higher education systems

from an authoritarian country should spur EU member states and the EU, which fund in particular the Erasmus programme based on openness, into a reflection on how to fully protect both free movement of capital and educational freedom.

The EU is working on a set of guidelines that would be co-created with member states and relevant stakeholders structured around four areas of attention, which are especially vulnerable to foreign intervention: governance, partnerships, security and values (European Commission 2020b). In terms of legal instruments, one option could be to include higher education (as well as Research and development which has so far received scant attention (Kratz et al. 2019)) in the scope of security areas covered by the Regulation on FDI screening. The Netherlands, for example, propose a definition of national security which has five referent objects, the fifth one being ‘Social and political stability, which can be impacted by disturbance of daily life, harm of the rule of law and the democratic system and social-psychological impact and social unrest’ (de Jong and Zwartkruis 2020: 450). The CJEU, which continues to be a crucial actor in the growing number of areas where integration extends (Saurugger and Terpan 2014), could play an important role in the area of FDI in the interpretation given to security.

### *Cyber threats*

China’s hybrid threat tactics in the EU and its neighbourhood started well before the Covid 19 crisis, but the pandemic has provided China with a favourable context to strengthen its influence on EU soil. The EU defines a hybrid threat as an:

[a]ction conducted by state or non-state actors, whose goal is to undermine or harm the target by influencing its decision-making at the local, regional, state or institutional level. Such actions are coordinated and synchroni[s]ed and deliberately target democratic states’ and institutions’ vulnerabilities.

(The European Center of Excellence for Countering Hybrid Threats n.d.)

The European Parliament decided to take action and established on 18 June 2020 a Special Committee on Foreign Interference in all Democratic Processes in the European Union, including disinformation (INGE).

In 2020, the Commission submitted a proposal for a Directive on measures for a high common level of cybersecurity across the EU, with EEA relevance (European Commission 2020d). The proposal builds on and repeals Directive (EU) 2016/1148 on security of network and information systems (NIS Directive), which is the first piece of EU-wide legislation on cybersecurity but had no EEA relevance. It intends to strengthen the security requirements, address the security of supply chains, streamline reporting obligations, and introduce more stringent supervisory measures and stricter enforcement requirements, including harmonised sanctions across the EU. The EEA relevance of the legislation ensures that the legislation covers countries with which the

EU has strong economic ties. The need to associate EEA countries to EU cyber security was recognised in 2012 when ENISA, the EU agency for cyber security established in 2004, made a significant change to associate European Free Trade Association countries and help them develop and update their National Cyber Security Strategy. Yet the new legislative proposal, given the relevance and sensitivity of the objectives pursued, is considered lacking compulsory requirements (European Economic and Social Committee 2021).

Concerning the cybersecurity of 5G networks, in January 2020, the EU proposed a toolbox of risk mitigating measures. Only in the Annex 2 of the toolbox, are there mentions on the vulnerabilities specific to the supplier and guidelines to pay attention to the likelihood of the supplier being subject to interference from a non-EU country. Such interference, reads the document, may be facilitated by a strong link between the supplier and a government of a given third country; and ‘the third country’s legislation, especially where there are no legislative or democratic checks and balances in place, or in the absence of security’. The guidelines do not prescribe a coherent approach of member states which have distinct approaches, e.g. to Huawei, ranging from banning Chinese suppliers from rolling out 5G altogether, to undecided positions (EURACTIV 2021).

On 1 March 2021, High Representative Josep Borrell said the EU's foreign service does not have the resources nor the authority to effectively counter hybrid attacks coming from China, and that he is planning to work on a ‘toolbox’ to counter foreign interference with new instruments (European Parliament 2021). Almost five years after the European Commission proposed to replace Council Regulation (EC) No. 428/2009, the recast ‘dual-use’ regulation (Regulation 2021/821) was released in June 2021. It aims at strengthening controls on a broader spectrum of evolving dual-use items (items that can be used for both civilian and military purposes) and the coordination between EU member states to support the efficient enforcement of controls across the EU.

### *Defence and security policy*

FDI in strategic and dual use infrastructure and technology are covered by Regulation 2019/452 for the screening of foreign direct investments into the Union mentioned above. However, and also because of the low stringency of the regulation, the scope of the challenge addressed by the increasing interconnection between civil and military domains and from conventional and unconventional security risks, calls for considering the integration and differentiation in aspects of defence and security policy. The civil-military interconnection is also developed in the EU with projects such as ANDES launched in June 2020 and the Action Plan on Synergies between civil, defence and space industries launched on 21 February 2021. The latter aims at reinforcing European innovation by exploring and exploiting the disruptive potential of technologies at the interface between defence, space and civil uses, such as cloud, processors, cyber, quantum and artificial intelligence (European Economic and Social

Committee 2021b). The EU strategy towards China released in March 2019 warns about ‘China's increasing military capabilities’ which ‘coupled with its comprehensive vision and ambition to have the technologically most advanced armed forces by 2050 present security issues for the EU, already in a short to mid-term perspective’. The strategy further specifies that ‘Cross-sectoral hybrid threats including information operations, and large military exercises not only undermine trust, but also challenge the EU’s security and must be addressed in the context of our mutual relationship’ (European Commission and High Representative of the Union for Foreign Affairs and Security Policy 2019: 4).

### *Border control*

Under the World Customs Organization recommendation, the EU is already working on a system of Globally Networked Customs (GNC), and in a few specific cases is cooperating with China (World Customs Organization 2016: 7). Such networks are all but easy to establish:

Unlike many other significant changes to border procedures, GNC (which is not an IT system, but a set of guiding principles) involves parties in other jurisdictions and this, in turn, raises issues of international affairs, sovereignty and instruments such as trade agreements.

(World Customs Organization 2016: 1)

### *Sub-regional cooperation*

The participation of EU member states in the 17+1 forum, driven by an external power which tends to undermine EU legitimacy, raises the questions of the conditions under which such participation is acceptable. The EU communication ‘EU-China a strategic outlook’ of March 2019 points to the challenges brought about by the Cooperation between China and CEE countries (at that time called the 16+1 forum) – as the European Commission already did in 2016 in its Joint Communication on Elements for a New EU Strategy on China. The 2019 strategic outlook testifies to a growing appreciation in Europe that the balance of challenges and opportunities presented by China has shifted. It presents China as being a cooperation partner, a negotiating partner, and a systemic rival in promoting alternative models of governance (European Commission and High Representative of the Union for Foreign Affairs and Security Policy 2019: 1). The document specifies that:

[n]either the EU nor any of its [m]ember [s]tates can effectively achieve their aims with China without full unity. In cooperating with China, all [m]ember [s]tates, individually and within sub-regional cooperation frameworks, such as the 16+1 format, have a responsibility to ensure consistency with EU law, rules and policies.

(ibid: 2)

How does one prevent such cooperation mechanisms controlled by an external power to be detrimental to the EU? Financial support like the Cohesion Fund helps reduce economic and social disparities and promote sustainable development: it benefits all EU countries of the 17+1 forum. Other instruments also exist, such as the Instrument for Pre-Accession and the Neighbourhood, Development and International Cooperation Instrument. Another response than financial support or an encouragement to screen FDI could be to make use of the duty of loyalty, which is at the heart of the EU Treaty. Article 4 (3) reads that, pursuant to the duty of sincere cooperation, '[t]he [m]ember [s]tates shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives'. The principle of loyalty is considered a 'key constitutional principle of general application in the EU legal order'. This principle is applied in the context of member-states action in a regional or international regime where EU does not have the status of a party: unilateral external action by the member states is precluded in order to preserve the unity of the EU's external representation. But the principle also applies in the area of a common European foreign policy: Article 24 (3) of the Treaty on European Union enjoins EU member states to develop political solidarity, and refrain from any action contrary to its interests that could impair EU effectiveness as a 'cohesive force in international relations'.

Van der Eijk and Pandita Gunavardana (2019) apply the duty of sincere cooperation to agreements of the BRI. They note that case law of the CJEU has interpreted this duty widely and according to the *Inland Waterways* case, this duty includes situations where member states negotiate agreements with third countries in parallel to the EU and on the same subject matter. They consider that since the EU launched negotiations for an investment agreement with China in 2013, a new bilateral Italy-China investment agreement under this BRI framework would amount to Italy violating the duty of sincere cooperation (ibid). Yet the challenges that external hegemony represent in an interconnected and interdependent world incite us to think of a wider use of the duty of loyalty, in cases that do not necessarily relate to international trade, but fall into the definition of hybrid threats, e.g in higher education. Eckes (2020: 103) explains that in areas in which the EU's competences are subject to a dynamic development, which is the case in external relations, the EU legal order is relatively immature, and leads to a high number of legal disputes. She contends that:

[t]his dynamic development and relative immaturity also explain the high relevance of loyalty as an understanding of a durable, objective-oriented cooperative logic. In other words, loyalty as a tool of the Court to discipline member states gains relevance in a context, in which specific rules and principles have not yet been codified.

(van der Eijk and Pandita Gunavardana 2019)



## Conclusion

The study of EU-China interdependence shows that the relation between power and interdependence needs to take into consideration the specificities of the EU as a differentiated and integrated system. Chinese exercise of power affects the EU in a more complex way than a state, as some of its features can amount to vulnerabilities. Such vulnerabilities are so far not clearly accounted for in the literature on EU as an international actor.

This article has substantiated how China uses three types of power (compulsory, institutional and ideational), through various means ranging from FDI, disinformation, cyber-attacks, the bypassing of the EU and of elected representatives, to reach specific targets (critical infrastructure, civil society, national governments), and affect several policies (transport, telecommunication, health, border control, higher education). Beijing's foreign policy in the EU and its neighbourhood represents an attempt to take advantage of EU's vulnerabilities (its diversity, uncertain cohesion and the legitimacy requirement) with the ultimate consequences of weakening the relevance and the legitimacy of EU institutions and democracy.

With regards to the magnitude of the challenges posed by the interdependence with an authoritarian country, the EU's answers appear incomplete and constrained by a slow policy process. Integration and differentiation factor in the relation between EU and China in two main ways: (1) more integration (or competences-based differentiation) is needed in several policies (FDI in critical infrastructure, cyber-security, border control). The FDI screening mechanism in particular would benefit from more stringent provisions, and to include higher education. A low stringency can equate to flexibility mechanism and weaken the efficiency of the policy. Research and higher education need to be protected from foreign interference impacting national security or detrimental to EU values. Border and customs control – due to territorial vulnerability, as well as countering disinformation, require stronger integrated cooperation. With regards to cyber-security, the EU needs more authority, and to step up on cyber defence: the proposal for a Directive on measures for a high common level of cybersecurity across the EU, with EEA relevance the new EU Cybersecurity Strategy at least calls for more cooperation. (2) More territorial differentiation appears as a strength when it means extended cooperation with EEA countries and EU neighbourhood countries.

A reflection needs to be developed on the applicability of the core principle of loyalty in such cases, as the participation of member states in a forum driven by an external power that play against EU's values. Two major difficulties arise: (a) one relates to justification, which is necessary for reason of legitimacy of an action taken by the EU in relation to a member state external policy. (b) The second difficulty, not necessarily overcome by justification, resides in a potential irritation of member states, especially

in a context of euro-scepticism, which could become counterproductive to integration. To the extent that the use of the principle of loyalty is justified and does not spark a backlash against integration, it would allow to better cover a number of issues, which under the umbrella of cooperation stand at the frontier between soft power and hybrid threats, and under the current circumstances can be called ‘foreign political investments’.

The paper suggests that EU’s resilience, in the specific context examined here, relies on three key aspects: (1) the EU and its member states ability to identify the multilevel, multiform and often intertwined threats of Chinese foreign policy to its economy (and strategic autonomy) and democracy; (2) the EU member states’ cohesion achieved inter alia through an appropriate level of stringency of policies and the use of the duty of loyalty, (3) and a strengthening of EU integration and EU external differentiation.

Further research is undertaken by the author with the EU3D consortium to determine through a systematic and a comparative regional approach, the conditions under which differentiation increases or decreases EU’s resilience to a great power under interdependence. The answers, be they political, constitutional, or judicial, are expected to contribute to the reflection on the future of European democracy and stability. The undermining of EU strategic autonomy and democracy would not only weaken the EU but could generate a downward cycle also affecting global stability, as a weaker EU would be less apt to support international law, democracy and human rights on the international arena.

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