

STUDY

Requested by the INGE committee



# Investing in destabilisation: How foreign money is used to undermine democracy in the EU



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## STUDY

# Investing in destabilisation: How foreign money is used to undermine democracy in the EU

### ABSTRACT

Foreign interference has become a major security threat for democracies. The European Union (EU) provides no exception and, in the last few years, has significantly stepped up its efforts to counter this threat. A specific type of foreign interference is the foreign funding of political parties. At the national level, regulations banning or limiting foreign funding are currently in place in most member states, but there is still significant variation across them. At the EU level, the recent reforms of the regulation on the funding of the Europarties and their associated foundations have banned contributions from abroad. Notwithstanding such welcome changes to party regulations, cases of foreign funding are still being reported in several member states, with foreign actors exploiting regulatory loopholes to channel funds or provide other types of support. To tackle this issue more effectively, regulatory convergence at the national level should be promoted, the transparency of party accounts should be enhanced, and the monitoring and sanctioning powers of the relevant control authorities strengthened.

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## Executive summary

The foreign funding of political parties is a tool that states have traditionally used to interfere in the politics of another country. Recently, the foreign funding of political parties has become one of the means through which autocracies are seeking to upset and disrupt the democratic process of other countries or the European Union (EU). Within the broader set of tools often catalogued as hybrid threats, party foreign funding emerged as a salient and worrying issue ahead of the 2019 European Parliament (EP) elections, when several attempts to provide support from abroad to anti-EU parties were documented. In the last few years, evidence of foreign funding to parties has been collected across the democratic world, in several EU member countries, former members, and beyond.

From the Leave.EU campaign organization in the Brexit referendum to the financial support offered by Russia to right-wing parties, financial resources from abroad have been used to finance political campaigns and the political activities of parties in several EU member states. By supporting political parties abroad, foreign states can nurture political allies, defending their interests when important political decisions are at stake (e.g. sanctions). Coupled with the spread of disinformation, and targeted cyberattacks against election infrastructures, such foreign interferences are designed to damage trust in democracies and their institutions. In the context of a pandemic crisis, the risks are magnified, and the necessity to protect democratic processes and values stronger than ever.

The objective of this study is to provide an empirical map and identify key policy issues in the regulation of party funding from third countries. The study also aims to explore possible avenues to counter foreign interferences with legislative and non-legislative actions at both the EU-level and in member states. The study is organised in three substantive chapters, and a conclusive chapter providing policy recommendations.

Chapter one introduces the issue of foreign interference and its impact on democratic politics and societies. After a brief contextualisation of the topic and a review of some recent reforms implemented by democracies outside the EU, the chapter presents the key actions taken by the EU to tackle hybrid threats. It shows that the EU has chosen a wide-ranging approach to confront the many destabilisation tools used by foreign states, stopping short of using military force. Finally, the chapter moves its focus to the issue of foreign funding of political parties and the regulation of online political advertising, introducing the European democracy action plan of December 2020 and the legislative proposals expected in 2021.

Chapter two presents a comparative overview of party regulations in EU member states, based on the Political Finance Database (International IDEA) and other sources. To illustrate the trend towards tightening the legal framework on foreign funding of parties, it reviews in detail a few selected cases of recent reform of party regulations or, at least, cases in which there has been discussion about reform, even in countries where, so far, a ban on foreign funding has been resisted. The chapter then explores the legal loopholes which, notwithstanding the existing legal frameworks, have been used to fund political parties and campaigns from abroad. Finally, an in-depth analysis of some prominent cases illustrates the different modes in which foreign support is provided to political parties, using legal or, allegedly, illegal channels.

Chapter three moves the focus from the national to the EU level. It provides a detailed map of the changes in the legal regulations of European political parties, particularly regarding their funding. Based on empirical data, it reviews the donations received from abroad by all the Europarties and their associated foundations in the period 2014-17, when this practice was legal. Finally, it discusses the role of the Authority for European Political Parties and European Political Foundations (hereinafter, the Authority), the challenges it faces and its future prospects.

Chapter four concludes with specific policy recommendations. It suggests that the issue of foreign funding of parties should be tackled both at the national and at the EU level. Even if the EU cannot regulate national parties, it should exert pressure on the national authorities to outlaw party funding originating from outside the Union. At the EU-level, regulatory reforms have moved in the right direction, and the direct foreign funding of Europarties and their foundations is forbidden. However, as funding from abroad may reach the Europarties in an indirect and round-about way, the Authority should be given adequate resources to properly monitor financial flows, also by strengthening its cooperation with the relevant national authorities,

## 1. The challenge of foreign interferences<sup>1</sup>

'Global democracy continued its decline in 2020' according to the latest edition of the Democracy Index, whose value was the lowest since the series began in 2006.<sup>2</sup> Democratic backsliding' is also affecting the EU, with some member countries experiencing a significant deterioration of the quality of their democratic standards.<sup>3</sup> Furthermore, the exceptional measures introduced to tackle the COVID pandemic have led to limitations on personal freedoms and enhanced the controls exercised by governments over citizens lives.<sup>4</sup> In this difficult and uncertain context, democracy remains a fragile system. As EU leaders have often stressed, the 'resilience' of democratic systems is under pressure and countries – and the EU itself – should not be complicit and take it for granted.

Democracies are the main targets of foreign interferences, mainly sponsored by autocratic states. These operations take advantage of the openness of democratic systems and threaten core liberal values, human rights, as well as the proper functioning of societies and institutions. Foreign interferences – which are defined, by the US Cybersecurity and Infrastructure Security Agency, as 'malign actions taken by foreign governments or actors designed to sow discord, manipulate public discourse, discredit the electoral system, bias the development of policy, or disrupt markets' to undermine the interests of a country and its allies<sup>5</sup> – include a broad and varied range of tools. (Online) disinformation is a very prominent example, but it is certainly not the only instance.

The threat that foreign interferences represent for democracy has been underscored at the highest political level. In its resolution on foreign electoral interference and disinformation, the EP acknowledged that they 'constitute a major challenge' and 'pose serious risks for European democratic societies and institutions ... and, ultimately, Europe's sovereignty'.<sup>6</sup> French President Emmanuel Macron has also emphatically stressed the need to protect 'democratic freedom' as 'foreign powers seek to influence our vote at each election'. He further suggested that a 'European Agency for the Protection of Democracy' should be created *ad hoc* to tackle interferences and be accompanied by a ban on 'the funding of European political parties by foreign powers', in order to safeguard election processes.<sup>7</sup>

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<sup>1</sup> The Author of this report would like to thank Federica Nava and Matteo Nebbiai for their research assistance and Dr. Claire Marie O'Neill for her linguistic review.

<sup>2</sup> The Economist, *Global Democracy has a very bad year*, 2.2.2021. <https://www.economist.com/graphic-detail/2021/02/02/global-democracy-has-a-very-bad-year>. Similarly, Freedom House finds that countries with declines in political rights and civil liberties outnumbered those with gains by the largest margin since 2006. Freedom House, *Freedom in the World 2021. Democracy under Siege*. Washington, DC. <https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege>

<sup>3</sup> See, e.g., Kelemen, R. 'Europe's Other Democratic Deficit: National Authoritarianism in Europe's Democratic Union'. *Government and Opposition*, 52(2), 2017, pp. 211-238; Lindberg, S. I. 'The nature of Democratic Backsliding in Europe'. *Carnegie Europe*, 24.7.2018.

<sup>4</sup> Bentzen, N. *Foreign interference in democracies. Understanding the threat, and evolving responses*. Briefing, European Parliament, 09.2020.

<sup>5</sup> Cybersecurity and Infrastructure Security Agency, *Foreign Interference*, <https://www.cisa.gov/publication/foreign-interference>

<sup>6</sup> European Parliament, *Resolution on Foreign electoral interference and disinformation in national and European democratic processes*, P9\_TA(2019)0031, 10.10.2019

<sup>7</sup> Macron, E. *Emmanuel Macron's 3 ways to renew Europe*, World Economic Forum – Project Syndicate, 10.5.2019. <https://www.weforum.org/agenda/2019/05/renewing-europe/>



## 1.1. Foreign interferences and the threat for democracy

Several different tools and instruments, both of a physical and, increasingly, a virtual nature, fall under the rubric of foreign interference. Lying in a grey area between war and peace, such threats to liberal democracy are often categorised as 'hybrid'. This concept, used both in the academic literature and by EU institutions, captures a 'mixture of coercive and subversive activity, conventional and unconventional methods (i.e. diplomatic, military, economic, technological), which can be used in a coordinated manner by state or non-state actors to achieve specific objectives while remaining below the threshold of formally declared warfare'.<sup>8</sup>

In its resolution on foreign electoral interference, the EP describes the 'myriad of forms' taken by foreign interference, from 'disinformation campaigns on social media to shape public opinion, cyber-attacks targeting critical infrastructure related to elections, and direct and indirect financial support of political actors'.<sup>9</sup> Such different types of foreign interference have two core elements in common according to Kristine Berzina and Etienne Soula: their 'malicious intent' and 'lack of transparency'.<sup>10</sup> The former aspect distinguishes interference, whose objective is to disrupt and damage the institutions and procedures of democracy, from other legitimate practices of inter-state relations, such as public diplomacy.<sup>11</sup> The latter element points to the opaque and often covert nature of such operations, which are consequently difficult to identify and trace back to the sponsoring entity.

Foreign interferences have a damaging impact on the functioning of democratic systems. For instance, cybercrime can damage national electoral infrastructure and seek to delegitimize electoral results, thus weakening trust in institutions. Fake news and disinformation may distort the views of citizens and threaten their capacity to make informed decisions. Such operations can frame and impose narratives that polarise public opinion and undermine the quality of public debate.<sup>12</sup> Given the harmful consequences of foreign interferences for democratic quality, several countries outside the EU have recently stepped up their efforts and implemented various actions to tackle them.

For instance, in the United States, where Russian interferences in the 2016 presidential elections have been well documented, major steps have been taken. The Department of Homeland Security has designated election infrastructure as 'critical infrastructure and set up the 'countering foreign influence task force' to monitor threats. The FBI has also created a dedicated task force and enhanced its coordination with other federal agencies. In Australia, where foreign interferences from China are the main threat, a 'national counter foreign interference coordinator' has been appointed and a 'counter foreign interference task force' has been established. Several legislative acts – including one that restricts foreign donations to political parties – have been approved. Canada has also established a task force and amended its legislation on elections, prohibiting the

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<sup>8</sup> European Commission, High Representative of the Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament and the Council. Joint Framework on Countering Hybrid Threats. A European Union response*. JOIN(2016) 18 final, Brussels, 6.4.2016.

<sup>9</sup> European Parliament, *Resolution on Foreign electoral interference and disinformation in national and European democratic processes*.

<sup>10</sup> Berzina, K. and Soula, E., *Conceptualizing Foreign Interference in Europe*, Alliance for Securing Democracy, 18.3.2020

<sup>11</sup> The distinction between legitimate and illegitimate practices of states in the affairs of other states has also been described as 'foreign interference' vs 'foreign influence'. Cf. Australian Government. Attorney General's Department. *What is the difference between 'foreign influence' and 'foreign interference'?*. Factsheet 2, February 2019.

<sup>12</sup> Tucker, J. A., Guess, A., Barberá, P., Vaccari, C., Siegel, A., Sanovich Stukal, S. and Nyhan, B., *Social Media, Political Polarization, and Political Disinformation: A Review of the Scientific Literature*, Hewlett Foundation, March 2018, pp. 51-62.

use of funds from foreign entities. New Zealand amended its Electoral Act in 2019, reducing the limit on foreign donations to political parties and candidates.<sup>13</sup>

## 1.2. Foreign interferences and EU responses

Particularly since 2015, following Russia's annexation of Crimea, the EU has significantly stepped up its efforts to counter foreign interferences. It has embraced a 'comprehensive' approach, employing several different tools, and strictly cooperating both with authorities in member states, where legal competences are often located, and international organisations. NATO, which has also significantly expanded its toolkit to tackle the new security threats, has been prominent in the latter group.<sup>14</sup>

The EU has employed the concept of 'hybridity' to capture the wide range of destabilisation tools falling under the threshold of military force – from disinformation to cyber-attacks, from disruption of energy supplies to the overt or covert financing of political parties – used by foreign actors. In the *Joint Framework on Countering Hybrid Threats – a European Union Response*, the European Commission and the HR presented such a broad-ranging approach, bringing together several existing EU policies, aiming at fostering the resilience of the EU.<sup>15</sup> In successive strategic documents the concept of hybrid threat was further developed: the 2016 *Global Strategy* identified hybrid threats as a key challenge to EU security,<sup>16</sup> while responses to hybrid threats were singled out in the 2017 *Joint Communication - A Strategic Approach to Resilience in the EU's External Action*.<sup>17</sup>

In June 2018 the Commission and the HR issued a *Joint Communication on increasing resilience and bolstering capabilities to address hybrid threats*, which identified areas in which action should be intensified, such as improving the capacity to detect hybrid threats, actions against chemical, biological, radiological and nuclear threats, strategic communication and disinformation, deterrence in the cybersecurity sector and resilience to hostile intelligence activity.<sup>18</sup> Hybrid threats remained a high priority in the EU agenda during 2019, the year of the EP elections.<sup>19</sup>

Among the different hybrid threats, particular attention was paid to disinformation activities, defined as 'verifiably false or misleading information that is created, presented and disseminated for economic gain or to intentionally deceive the public, and may cause public harm'.<sup>20</sup> In March 2015 the European Council tasked the HR to prepare an *Action Plan on Strategic Communication*, aiming to improve the external image of the EU while, at the same time, refuting 'fake news'.<sup>21</sup> From mid-2017 onwards, the Commission developed its strategic responses to the disinformation threat,

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<sup>13</sup> For an overview of the implemented measures, see Bentzen, N. *Foreign interference in democracies. Understanding the threat, and evolving responses*, cit., pp. 2-4. On New Zealand, see Library of Congress, *Global Legal Monitor*, 11.12.2019.

<sup>14</sup> See Bressanelli, E., Di Palma, A., Inglese, G., Marini, S. and Repetto, E. *Institutions and Foreign Interferences*. European Parliament, Study. June 2020, Chapter 2. See also Maurice, E. *European Democracy, a fundamental system to be protected*. *European Issue*, no. 578. Fondation Robert Schuman, 30.11.2020.

<sup>15</sup> European Commission, High Representative of the Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament and the Council. Joint Framework on Countering Hybrid Threats. A European Union response*.

<sup>16</sup> European External Action Service, *Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union's Foreign and Security Policy*, 28.6.2016.

<sup>17</sup> European Commission, *Joint Communication to the European Parliament and the Council - A Strategic Approach to Resilience in the EU's external action*, JOIN(2017) 21 final, Brussels, 7.6.2017.

<sup>18</sup> European Commission, *Joint communication to the European Parliament, the European Council and the Council - Increasing resilience and bolstering capabilities to address hybrid threats*, JOIN(2018) 16 final, Brussels, 13.6.2018.

<sup>19</sup> European Council, *Conclusions*, Brussels, 20.6.2019.

<sup>20</sup> European Commission, *Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Tackling online disinformation: a European Approach*, COM(2018) 236 final, Brussels, 26.4.2018.

<sup>21</sup> European Council, *Conclusions*, Brussels, 20 March 2015

culminating in the *Code of Practice on Disinformation*, a self-regulation of online social companies, and in the *Joint Action Plan on Disinformation* to develop a coordinated response to challenges in the field (see further below).

With the EP elections approaching, and several instances of electoral interference observed at the level of the member states,<sup>22</sup> in September 2018 the Commission presented a robust package on *securing free and fair European elections* including online transparency, election cooperation networks, protection against cybersecurity incidents, fighting disinformation campaigns and enhancing protection against data breaches by political parties.<sup>23</sup> While the EU can only directly regulate the EP elections, and national elections are regulated at the level of the member states, it can nonetheless issue recommendations and suggest best practices to its members.

Notwithstanding the fact that organised and systematic foreign interference campaigns had not been detected ahead of the 2019 EP elections, the issue remained highly salient in the EU agenda. The newly designated President of the European Commission – Ursula von der Leyen – gave special prominence to the issue in July 2019, in her first speech before the EP. Presenting the strategic agenda of the Commission for the 2019-2024 mandate, she described EU security challenges as ‘diverse and unpredictable’ and referred to several ‘serious and acute’ hybrid threats, requiring the EU to ‘step up its response and resilience’.<sup>24</sup>

Specifically, in the section of her strategic agenda dedicated to ‘European democracy’, the President-elect made a strong plea to strengthen the EU’s capacity to protect itself from external interference, as ‘our democratic systems and institutions have come under increasing attack in recent years from those who wish to divide and destabilise our Union’. In concrete terms, she promised to present a *European democracy action plan* to address the threat of external intervention in European elections and to put forward legislative proposals ensuring greater transparency of paid political advertising and clearer rules on the financing of European political parties.<sup>25</sup> The democracy action plan was then listed in the Work Programme of January 2020 and confirmed in the adjusted Work Programme of May 2020.<sup>26</sup>

In July 2020, the new *European Security Union Strategy* undertook to develop the EU’s resilience and revise the operational protocol to counter hybrid threats. It was followed, in December, by the new *Cybersecurity strategy*, which included proposals to revise the directive on the security of networks and information systems (NIS). In early December 2020, the Commission finally presented the *European democracy action plan*, detailing policy actions along three lines: the integrity of elections and political advertising; the fight against misinformation; strengthening media freedom and pluralism.<sup>27</sup>

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<sup>22</sup> Cf. Brattberg, E. and T. Maurer, *Russian Election Interference: Europe’s Counter to Fake News and Cyber Attacks*, Carnegie Endowment for International Peace, 23.5.2018.

<sup>23</sup> European Commission, *Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Securing free and fair European elections A Contribution from the European Commission to the Leaders’ meeting in Salzburg*, 19-20.9.2018.

<sup>24</sup> von der Leyen, U. *A Union that Strives for More. My agenda for Europe. Political Guidelines for the Next European Commission 2019-2024*, 2019, p. 19.

<sup>25</sup> von der Leyen, U. *A Union that Strives for More. My agenda for Europe*, pp. 13, 21.

<sup>26</sup> European Commission, *Work Programme 2020: An ambitious roadmap for a Union that strives for more*, COM (2020) 37 Final, 29.1.2020.

<sup>27</sup> European Commission, *Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee on the Regions On the European democracy action plan*, COM/2020/790final, 3.12.2020

The EP has repeatedly pushed the EU to step up its efforts against foreign interferences. In its resolution of October 2019, the EP detailed the actions that the EU would need to implement to tackle this ‘major challenge’, discussing them further in the debate on the topic on 27 November 2019.<sup>28</sup> In June 2020, it voted to establish a Special Committee on Foreign Interferences on Democratic Processes, including Disinformation, which was constituted in September 2020 with an original mandate of 12 months, then extended by six additional months.

### 1.3. Foreign funding of political parties and campaigns

Foreign funding of political parties is a type of foreign interference that has received comparatively little attention, although the issue is certainly not new.<sup>29</sup> The Communist International, established after the Russian revolution, was meant to channel money to and, more broadly, support communist parties around the world. Political parties and movements in third countries were subsequently funded by the two superpowers – the USA and the USSR – during the Cold War period. More recently, foreign money has come to the aid of parties in the process of democratisation. For instance, after the fall of the Berlin wall, US and European parties and political foundations provided strong support – financial and other – to political parties in Central and Eastern Europe.<sup>30</sup>

The issue received renewed attention in the early 2000s and was discussed, together with corruption, by the Venice Commission, which adopted the *Guidelines and Report on the Financing of Political Parties*, banning ‘donations from foreign states or enterprises’, with the exception of financial donations from nationals living abroad. In 2003, in its Recommendation on *Common Rules Against Corruption in the Funding of Political Parties and Electoral Campaigns*, the Committee of Ministers of the Council of Europe stated that ‘states should specifically limit, prohibit or otherwise regulate donations from foreign donors’.

More recently, foreign party funding has been used to unsettle the EU and its member states – as in the case of the funding of the Leave.eu campaign, ahead of the British referendum on EU membership, and to build internal support for the views of a foreign-state actor, as in the case of the Dutch referendum on the trade agreement between the EU and Ukraine.<sup>31</sup> The foreign funding of political actors – not only political parties, but also election campaigns, individual candidates, think

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<sup>28</sup> European Parliament, *Resolution on Foreign electoral interference and disinformation in national and European democratic processes*. For a summary of the actions advocated by the EP, see Bressanelli, E., Di Palma, A., Inglese, G., Marini, S. and Repetto, E. *Institutions and Foreign Interferences*, Annex 2, pp. 112-114.

<sup>29</sup> See Van Biezen, I. *Financing political parties and election campaigns – guidelines*. Strasbourg: Council of Europe publishing, 2003, pp. 27-29. See also Rudolph J. and Morley, T. *Covert Foreign Money. Financial loopholes exploited by authoritarians to fund political interference in democracies*. The Alliance for Securing Democracy at The German Marshall Fund of the United States, August 2020, pp. 65-66.

<sup>30</sup> See, e.g., Dakowska, D. ‘German Political Foundations: Transnational party go-betweens in the process of EU enlargement’. In W. Kaiser and P. Starie (eds) *Transnational European Union*, Routledge, 2005, pp.150-169; Bressanelli, E., *Europarties after Enlargement. Organization, Ideology and Competition*. Basingstoke, Palgrave Macmillan, 2014, pp. 24-26.

<sup>31</sup> The non-binding referendum, held in April 2016, rejected the association agreement between the EU and Ukraine. There was a low turnout of 32 % with about two-thirds of the voters rejecting the agreement. Foreign interference by Russia was widely reported. Cf. Applebaum, A. ‘The Dutch just showed the world how Russia influences Western European elections’, *The Washington Post*, 8.4.2016; Higgins, A. ‘Fake News, Fake Ukrainians: How a Group of Russians Tilted a Dutch Vote’, *The New York Times*, 16.2.2017.

tanks, foundations, NGOs - is a 'delicate kind of foreign interference',<sup>32</sup> as it is deeply intertwined with national politics and often very difficult to demonstrate with hard evidence.<sup>33</sup>

In their systematic analysis of this phenomenon, Rudolph and Morley label this tool of foreign interference 'malign finance', and define it as 'the funding of foreign political parties, candidates, campaigns, well-connected elites, or politically influential groups, often through non-transparent structures designed to obfuscate ties to a nation state or its proxies'.<sup>34</sup> In their empirical analysis, they show that states like Russia and China are the most visible players in the field, but ultraconservative organisations in the USA have also actively financed and coordinated far-right movements in Europe, particularly in the run-up to the 2019 EP elections.

In the last few years, the EU has placed this issue under the spotlight. In September 2018, as part of its 'election package', the Commission asked member states to improve the rules on the transparency of political party financing. Through the European Cooperation Network on Elections, which brings together representatives of member state authorities with competence in electoral matters, a map of the extant legal regulations regarding various aspects of party financing – including funding from abroad – was made. The EP sounded the alarm on foreign party funding and its resolution on foreign electoral interferences expressed concern that

*even where laws place restrictions on the sources of political funding, foreign actors have found ways to circumvent them and have offered support to their allies by taking out loans with foreign banks, as in the case of the Front National in 2016, through purchase and commercial agreements, as in the case of the allegations reported by Der Spiegel and Süddeutsche Zeitung on 17 May 2019 against the Freedom Party of Austria and by BuzzFeed and L'Espresso on 10 July 2019 against Lega per Salvini Premier, and the facilitation of financial activities, as reported by the British press in relation to the Leave.eu campaign.<sup>35</sup>*

The same resolution called on the Commission to address the issue of foreign funding for European political parties and foundations, and to start a discussion with member states to address the very same issues at the national level.<sup>36</sup> It therefore clarified that the issue of foreign funding could only be effectively tackled at both levels of governance. In more general terms, the need to counteract foreign interferences has continuously been reiterated by the EP in successive resolutions.<sup>37</sup>

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<sup>32</sup> Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation, *Working Document on the State of Foreign Interferences in the European Union, including disinformation*, December 2020, p. 6.

<sup>33</sup> Interestingly, the Venice Commission recommended a 'specific approach towards allowing the financing of a political party established in a member State of the EU by a political party from another member State of the EU, given the peculiar nature of the EU and transnational party cooperation within the Union' adding that, in the multi-level system of the EU, 'co-operation and to some extent integration of existing financing systems is not only unavoidable but also essentially necessary'. Venice Commission, *Opinion on the Prohibition of Financial Contributions to Political Parties from Foreign Sources*, adopted by the Venice Commission at its 66<sup>th</sup> Plenary Session, Venice, 17-18.3.2006, pp. 10-11.

<sup>34</sup> Rudolph J. and Morley, T. *Covert Foreign Money. Financial loopholes exploited by authoritarians to fund political interference in democracies*, p. 1.

<sup>35</sup> European Parliament, *Resolution on Foreign electoral interference and disinformation in national and European democratic processes*, par.7.

<sup>36</sup> European Parliament, *Resolution on Foreign electoral interference and disinformation in national and European democratic processes*, par. 37.

<sup>37</sup> European Parliament, *Resolution on EU coordinated action to combat the COVID-19 pandemic*, 2020/2616(RSP), Brussels, 17.4.2020, par. 58; European Parliament, *Report on Strengthening Media Freedom: the Protection of Journalists in Europe, Hate Speech, Disinformation and the Role of Platforms*, 2020/2009(INI), Brussels, 25.11.2020, par. 36.



The Commission headed by Ursula von der Leyen listed the revision of the regulation of European political parties and foundations among its priorities in her *Political Guidelines* for 2019-2024 and, in the *Work Programme* for 2021, embraced an ambitious plan:

*The European Democracy action plan to be adopted will be a stepping stone to improve the resilience of our democracies, address the threats of external interference in European elections and counter disinformation, as well as to support free and independent media. Next year, we will propose clearer rules on the financing of the European political parties and take action to ensure greater transparency in paid political advertising*<sup>38</sup>

The issue also remained a priority for the Council of the EU. In its Conclusions of 15 December 2020, the Council confirmed its objective to 'protect our democratic societies and institutions from hybrid threats originating from hostile state and non-state actors'<sup>39</sup> while, more recently, the Portuguese Presidency pledged to 'pay particular attention to external threats to electoral processes in the Union and in the Member States' and to enhance the EU's ability to respond to hybrid threats.<sup>40</sup> Together, the strategic documents and statements from EU institutions show the prominence that the issue of foreign interference – including foreign party funding – has gained for the Union.

#### 1.4. Disinformation and political advertising

Towards the end of April 2018, the Commission presented an action plan endorsing self-regulatory tools<sup>41</sup> which was then followed by the Code of Practice on Disinformation, aiming to counter online disinformation and ensure transparency vis-à-vis political and issue-based advertising.<sup>42</sup> This ambitious soft-law document – the first example worldwide of a set of self-regulatory standards adopted by big tech companies, on a voluntary basis, to tackle online disinformation – was signed by the online platforms Facebook, Google and Twitter, Mozilla, as well as by advertisers and elements of the advertising industry in October 2018, while Microsoft and TikTok joined the initiative in May 2019 and June 2020, respectively.<sup>43</sup>

Despite its innovative nature, the Code of Practice suffered from a number of shortcomings.<sup>44</sup> The use of a self-regulatory instrument was considered only the first step to address an issue that constitutes a moving target, and the Commission itself underlined its importance as a framework to enhance the transparency of the platforms' policies.<sup>45</sup> Its self-regulatory nature could not coerce online service providers to implement the wide list of commitments that the signatories had agreed upon, such as closing fake accounts or the 'demonetization' of the providers of false or misleading information. In addition, the Code did not explicitly address the issue of foreign interference, tackling 'purveyors of disinformation' with no further characterization.

As for the latter aspect, some paradoxical issues became apparent a few months ahead of the 2019 EP elections. In an attempt to counter possible online foreign interferences in the electoral

<sup>38</sup> European Commission, *Work Programme 2021: A Union of vitality in a world of fragility*, COM (2020) 690 Final, 19.10.2020.

<sup>39</sup> Council of the EU, *Council Conclusions on strengthening resilience and countering hybrid threats, including disinformation in the context of the COVID-19 pandemic*, 15.12.2020.

<sup>40</sup> Portuguese Presidency of the Council of the EU, *Programme of the Portuguese Presidency of the Council of the EU*, 1.1.2021 – 30.6.2021, p.13.

<sup>41</sup> European Commission, *Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Tackling online disinformation: a European Approach*.

<sup>42</sup> European Commission, *Code of Practice on Disinformation*, 26.9.2018.

<sup>43</sup> See European Commission, *Code of Practice on Disinformation*, 23.2.2021 (last update). <https://ec.europa.eu/digital-single-market/en/code-practice-disinformation>

<sup>44</sup> Bressanelli, E., Di Palma, A., Inglese, G., Marini, S. and Repetto, E. *Institutions and Foreign Interferences*, pp. 38-42.

<sup>45</sup> European Commission, *Code of Practice on Disinformation: First annual reports – October 2019*, pp. 1-2.

campaign, Facebook demanded that any individual, party, or organisation wishing to use the platform for political campaigning must be registered in the country where campaign adverts will be shown. This measure, although admissible within the broad scope of the Code of Practice, was strongly criticized by the EP, as well as by several Europarties, because it was liable to inhibit transnational campaigning within the EU, creating intolerable barriers to European democracy.<sup>46</sup>

As the legal uncertainty became manifest, the debate moved in the direction of reforming the code in favour of a co-regulatory approach or, even, direct regulation by the EU. As Commission VP Věra Jourová stated already in early 2020: 'it is clear that [...] to achieve a healthy, balanced use of technology you will also need some degree of regulation, in particular addressed to the platforms'.<sup>47</sup> In addition, a stronger regulatory measure was also needed to support the monitoring and enforcement tasks carried out by competent national authorities, which could face a lack of capacity, resources, awareness, capability, and access to the online environment.<sup>48</sup>

In relation to online political advertising, the Commission was expected to present a legislative proposal in 2021, building on the European democracy action plan, ensuring greater transparency and imposing limits on techniques such as microtargeting and user profiling. The new regulation was meant to complement the *Digital Services Act* – in this case, the Commission's legislative proposal was published in December 2020 – a horizontal framework for regulatory oversight, as well as accountability and transparency of the online space, in response to the emerging risks.<sup>49</sup>

At the time of writing, a public consultation on the measures to increase transparency in political advertising was still open.<sup>50</sup> However, a previously published report on public consultation vis-à-vis the European democracy action plan provides very relevant information on election integrity and political advertising. The vast majority of the respondents to the consultation called for more impactful measures to counter foreign interference: 60 % of them were in favour of prohibiting foreign online targeted political content and more than 80 % believed that misinformation or fake accounts run by governments, including foreign governments, was one of the most urgent threats to the electoral process, both in the EU and its member states.<sup>51</sup> Therefore, the consultation underscored a widely felt need for the EU to take swift action ahead of the next round of EP elections in 2024, to regulate online media and political advertising more tightly.

## 1.5. Protecting EU democracy against foreign interferences

As the European democracy action plan put it: 'Democracy cannot be taken for granted – it needs to be actively nurtured and defended'.<sup>52</sup> Several years before, the Venice Commission indicated that the prohibition of foreign funding to political parties could be considered 'necessary in a democratic society' when foreign funding 'undermines the fairness or integrity of political competition, leads to distortions of the electoral process, poses a threat to national territorial integrity or when it inhibits

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<sup>46</sup> Khan, M. (2019). 'Facebook rules on political advertising criticised by EU parties'. *Financial Times*. 29.3.2019.

<sup>47</sup> Jourová, V., *Opening speech of Vice-President Věra Jourová at the conference "Disinfo Horizon: Responding to Future Threats"*, European Commission, Brussels, 30.1.2020.

<sup>48</sup> Cf. European Commission. *Inception impact assessment on the Proposal for an initiative on greater transparency in sponsored political content, and other supporting measures* Ares(2021)622166, 26.1.2021.

<sup>49</sup> European Commission. *Proposal for a Regulation of the European Parliament and the Council on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC*. COM/2020/825final. 15.12.2020

<sup>50</sup> The feedback period was open from 22.1 to 2.4.2021; see European Commission, *Political advertising – improving transparency*. <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12826-Transparency-of-political-advertising>.

<sup>51</sup> European Commission. *Report on the Public Consultation for the European Democracy Action Plan*, 2.12.2020, pp. 8, 11, 34.

<sup>52</sup> European Commission, *European democracy action plan*.

responsive democratic development'.<sup>53</sup> The issue of foreign funding to political parties has emerged as a significant threat for EU democracy, in a context where foreign interferences have grown in scope and importance. Yet, it remains a difficult issue to tackle, as the rules on foreign party funding differ significantly among member states, and the Union does not have the legal competence to regulate national parties.<sup>54</sup> Notwithstanding such limits, which should nevertheless be taken into account when assessing EU policies in the field, significant progress has been made, both at national and EU level. Further targeted actions, with a timely implementation ahead of the 2024 EP elections, could make the Union a safer and more resilient democratic arena.

## 2. Party regulation at the national level

In its resolution on foreign interferences, the EP noted that, notwithstanding the existing rules, 'foreign actors have found ways to circumvent them and have offered support to their allies by taking out loans with foreign banks'.<sup>55</sup> The resolution made explicit reference to the external funding that the French *Front National* in 2016, the *Freiheitliche Partei Österreichs, Lega per Salvini Premier* in 2019, and the Leave campaign ahead of the referendum on EU membership in the UK, received from, or negotiated with, Russia or its proxies. As this chapter shows, 'loans with foreign banks' is only one of many ways in which foreign funding has been channelled to support political parties, sidestepping the extant legal regulations.

In what follows, a comparative overview of party regulations in the EU member states will be presented. This section will be followed by an in-depth analysis of some recent reforms. Despite the tighter regulatory framework, the next section shows that foreign states are still able to exploit legal loopholes. Their strategies will be illustrated with some prominent case studies.

### 2.1. Tackling foreign funding: a comparative framework

The foreign funding of political parties does not necessarily need to be a covert or illegal activity to exert undue influence on another country; it can also be a legal activity promoting democracy building and helping to strengthen political parties in a country's transition to democracy. The EU and its political parties themselves engaged in the latter type of activity ahead of enlargement to Central and Eastern Europe.

While acknowledging that not all foreign party funding serves the same purpose, the arguments against foreign contributions to political parties remain compelling. Foreign funding interferes with the autonomy and sovereignty of domestic politics, possibly deceiving voters and thus altering election outcomes. In addition, it is difficult – if not impossible – to make the donors accountable, as they are based in a different state and/or can be difficult to identify or trace. There is also a drawback for political parties themselves, as dependence on foreign money removes an important incentive to strengthen their internal organisation and make themselves capable of collecting their own resources, through their members and networks with society, the economic sphere, sister organisations and the like.<sup>56</sup>

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<sup>53</sup> Venice Commission, *Opinion on the prohibition of financial contributions to political parties from foreign sources*. Adopted by the Venice Commission at its 66<sup>th</sup> Plenary Session, Opinion no. 366/2006, Venice, 17-18.3.2006, pp. 12-13.

<sup>54</sup> Cf. Comai, G. 'EU takes its best action against foreign interference when tackling the big issues'. *Osservatorio Balcani e Caucaso Transeuropa*. 22.12.2020.

<sup>55</sup> European Parliament, *Resolution of 10.10.2019 on foreign electoral interference and disinformation in national and European democratic processes*, recital 7.

<sup>56</sup> Cf. Van Biezen, I. *Financing political parties and election campaigns – guidelines*.



A broad consensus has therefore emerged vis-à-vis forbidding the foreign funding of political parties. In its recommendations, the Council of Europe has prescribed states to 'limit, prohibit or otherwise regulate donations from foreign donors'.<sup>57</sup> In the early 2000s, when such recommendations were made, the regulatory framework was taking its early steps. Assessing the state of the art in the field, Ingrid Van Biezen observed that several countries had already adopted legal provisions restricting foreign donations. However, she also added that, with the exception of the UK, banning foreign donations in 2000, all these countries were newer democracies. On the other hand, the more 'liberal' countries with regard to foreign funding were all – except Greece – older democracies.<sup>58</sup> Therefore, the younger democracies in southern, central, and eastern Europe implemented more restrictive legal frameworks than the more mature democracies of western Europe. Not only were states with a long democratic history allowing foreign money to fund their political parties, but the threat was considered negligible given that, a decade later, the International Institute for Democracy and Electoral Assistance (International IDEA) could still conclude that, in the Anglo-American world at least, foreign contributions 'do not pose any major threats'.<sup>59</sup>

Given the mounting evidence, the issue of foreign interference in parties and elections has currently gained a prominence which was hardly foreseeable just a few years ago. The election meddling of countries like Russia or China has prompted reforms of party regulations across the democratic world. Thus, to mention just a few recent cases, Australia has adopted new legislation in 2018 imposing limits on foreign donations and introducing the offence of 'intentional foreign interference'; Canada approved the Elections Modernization Act in 2018; South Africa reformed its law in 2019, while New Zealand banned foreign funding starting from 2020.<sup>60</sup>

If the focus is placed on EU member countries, Table 1 shows the number and the share of EU countries – note that the UK is still included in the figures – which have (not) banned the foreign funding of political parties or candidates. The table elaborates on data extracted from the comparative political finance dataset, compiled by International IDEA.<sup>61</sup>

The dataset includes two questions on banning foreign funding to parties and candidates. Only two answers are possible, with a resulting binary response set. A ban is considered to be in place when regulations explicitly state that political parties are not allowed to receive donations from foreign citizens, foreign companies, foreign governments, or foreign organisations, or any of the above. This implies that – even within the group of countries banning foreign funding – differences can be important. On the other hand, if it is unclear or it is not explicitly stated that foreign funding is

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<sup>57</sup> See Committee of Ministers, *Recommendation Rec (2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns*, Council of Europe, Strasbourg, 8.4.2003, Art. 7.

<sup>58</sup> There was also an in-between category, with some countries introducing partial restrictions on foreign funding. Van Biezen, I. 'Political Parties as Public Utilities'. *Party Politics*, 10(6), 2004. Cf. also Van Biezen, I. *Financing political parties and election campaigns – guidelines*, p. 28.

<sup>59</sup> IDEA, *Funding of Political Parties and Election Campaigns. A Handbook on Political Finance*. Stockholm: International Idea, 2014, pp. 268-9.

<sup>60</sup> Cf. Law Library. Library of Congress. *Regulation of Foreign Involvement in Elections*. LL File No. 2019-017776. 8.2019, in particular the 'Comparative Summary', pp.1-3.

<sup>61</sup> The coding is based primarily on legislation from each country. If relevant legislation could not be retrieved, written sources such as election reports or political analyses were sought. For some regions, information was gathered from organizations focusing on campaign finance. See under the heading 'sources' in IDEA. *Political Finance Database*. 2020. <https://www.idea.int/data-tools/data/political-finance-database>

banned from being used to specifically fund parties or candidates in election contexts, a ban is not considered to be in place.<sup>62</sup>

Moving to the data, the upper section of Table 1 – showing whether foreign funding to parties is legal – shows that significant differences remain between the member states of the ‘old’ EU and the countries that have joined the EU since 2004. In 2020, most countries in the EU-15 had still not introduced a total ban on foreign funding. Contrariwise, all countries from Central and Eastern Europe (plus Croatia, Cyprus and Malta) had banned the foreign funding of political parties.

A very similar picture emerges from the lower section of Table 1 – illustrating whether there is a ban on the foreign funding of candidates – in which all but one country (Cyprus) in the newer category of member states forbid it. The change from 2014 to 2020 is also noteworthy, with three countries tightening their regulations (the Czech Republic, Estonia and Hungary). As for West European countries, a majority of them do not have an outright ban on donations to candidates.

Figures for the EU are similar to those reported for OECD countries: 68 % of the latter ban foreign donations to political parties, while 56 % ban donations to candidates. Regulations are, therefore, more restrictive with regard to parties than in relation to candidates. The OECD also notes the huge variation across countries.

Analysing regulatory provisions in 2016, it illustrates the heterogeneity of the rules with examples drawn from different continents. For instance, while Mexico has a ban on foreign donations and does not even allow Mexican citizens living abroad to donate to parties, Germany does not prohibit donations, but sets a (low) limit on how much foreigners outside the EU are allowed to contribute (EUR 1000). Israel does not allow foreign individual contributions in general elections, but it permits them in primary elections. The UK generally forbids contributions from abroad, other than from British citizens resident abroad who are still eligible to vote. These cases are therefore illustrative of the broad variation of regulatory norms which still exists in this field, notwithstanding a trend towards tightening regulations and restricting or outlawing foreign funding.<sup>63</sup>

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<sup>62</sup> For further information, see International Idea, *Coding Instruction*, available at: <https://www.idea.int/data-tools/data/coding-instructions>

<sup>63</sup> OECD. *Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture*, OECD Public Governance Reviews. OECD Publishing, Paris, 2016, pp. 50-51.

**Table 1:** Foreign funding to political parties and candidates

Is there a ban on donations from foreign interests to political parties?				
	2014		2020	
	Yes (%)	No (%)	Yes (%)	No (%)
'Old' EU	8 (53.3)	7 (46.7)	7 (46.7)	8 (53.3)
'New' EU	12 (92.3)	1 (7.6)	13 (100)	0
Total	20 (71.4)	8 (28.6)	20 (71.4)	8 (28.6)

Is there a ban on donations from foreign interests to candidates?				
	2014		2020	
	Yes (%)	No (%)	Yes (%)	No (%)
'Old' EU	7 (46.7)	8 (53.3)	6 (40)	9 (60)
'New' EU	9 (69.2)	4 (30.8)	12 (92.3)	1 (7.7)
Total	16 (57.1)	12 (42.9)	18 (64.3)	10 (35.7)

Source: *International Idea* (2014; 2020).

## 2.2. Party regulations: recent debates and reforms

The binary categorization presented in Table 1, while useful to provide a general overview, conceals important differences among countries. Several EU countries currently ban foreign funding to parties and candidates, while a handful of them allow parties to be funded from abroad, such as Belgium, Denmark and the Netherlands. In-between these two categories, however, there is a 'grey' area in which states have some restrictions in place such as, for instance, only allowing limited donations from individuals or donations from ideologically like-minded parties,<sup>64</sup> but fall short of having a full ban on foreign funding.

Notwithstanding the significant variation that still exists on the regulation of foreign funding to political parties, recent cases of foreign interferences have fuelled the debate on introducing regulations even in those countries which have, so far, resisted them. In what follows, some prominent cases are analysed to illustrate this trend towards tighter regulation of foreign funding to parties. They have been selected because a full ban on foreign funding has recently been introduced (Italy); significant reforms of party finance regulations have been implemented, but do not include a complete ban on foreign donations (Sweden); they are among the few EU countries which still do not ban foreign donations, but the issue of regulating them has recently entered the political agenda (Denmark and the Netherlands).

<sup>64</sup> Berzina, C. Foreign Funding and Threats to the EU's 2019 Elections, *The German Marshall Fund of the United States*. 9.10.2018.

In Italy, the 2018 general election was the first election contested by parties without public funding. The reform of party funding, implemented with decree No 149/2013 and law 13 of 21 February 2014, introduced an obligation to declare anonymous donations of up to EUR 5000 to either parties or candidates. At the same time, limitations to donations from abroad were not introduced. Apparently, there was no need for such measures, as foreign funding to support domestic political activity was very limited. As Transparency International documents, only the centre-right *Forza Italia* and *Movimento 5 Stelle* (M5S) declared foreign funds.<sup>65</sup>

After the 2018 general election, the new government, composed of an alliance between the League and the M5S, reformed party funding regulations, forbidding funding from abroad to parties, movements, foundations, and related associations. This reform was part of a broader plan to curb corruption, strongly advocated by one of the governing parties, the M5S, and implemented through law No 3/2019.<sup>66</sup> Yet, shortly afterwards, Decree Law No 34/2019<sup>67</sup> did allow foreign funding, even if only to foundations and associations. While also making explicit that such funds could not be redirected to political parties or candidates, the new rules made it more difficult to track the flows of money and detect irregularities, possibly hindering transparency and accountability.<sup>68</sup>

Therefore, Italy has legislation currently in place forbidding donations to political parties and to lists contesting elections in municipalities with a population exceeding 15 000 residents<sup>69</sup> from foreign governments, public entities and legal persons based in a third country. In addition, anonymous donations are banned, there is a low threshold for disclosing the source of donations and sanctions for infringing the regulations.

Sweden is another interesting case. The country was criticised for the absence of any legislation on foreign funding and the lack of transparency on party income and finance by the Council of Europe's Group of States against Corruption (GRECO).<sup>70</sup> In 2014, party regulations were reformed. Parties represented in the Swedish Parliament or the EP were required to disclose their funding to the Legal, Financial, and Administrative Services Agency. Since April 2018, with a further reform of the Act on Transparency in Political Party Financing, all Swedish political parties (at all levels of government) have been asked to do so. Furthermore, all donations exceeding a few hundred euros have been banned,<sup>71</sup> although information on specific individual donors have not been disclosed.

Such reforms of party regulations and the improvements in transparency and reporting obligations have been praised by GRECO.<sup>72</sup> On the other hand, foreign contributions are still not specifically forbidden. Receiving money from a foreign power or someone acting on behalf of a foreign power

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<sup>65</sup> Ferro, S. and Galinytè, A. *Partiti e fondazioni: quanto ne sappiamo davvero dei soldi ai politici?*, Transparency International Italia, Dossier No. 1, June 2018, p. 10.

<sup>66</sup> Legge 9 gennaio 2019, n. 3 - *Misure per il contrasto dei reati contro la pubblica amministrazione, nonché in materia di prescrizione del reato e in materia di trasparenza dei partiti e movimenti politici*. (18G00170) (GU n.13 16.1.2019).

<sup>67</sup> Presidente della Repubblica, *Decreto-Legge 30 aprile 2019, n. 34 - Misure urgenti di crescita economica e per la risoluzione di specifiche situazioni di crisi*. (19G00043) (GU n.100 del 30-4-2019).

<sup>68</sup> Mat, F. and Caranti, N. *Il finanziamento della politica in Italia*. Osservatorio Balcani e Caucaso Transeuropa. OBCT / CCI special dossier – 2. November 2019.

<sup>69</sup> Camera dei Deputati, Servizio Studi XVIII Legislatura, *Disciplina e trasparenza dei partiti politici e delle fondazioni*, 22.4.2020.

<sup>70</sup> "There is no ban on foreign donations nor on donations from legal persons or organisations with or without close links to the party, such as trade unions and other interest groups" Cf. GRECO, *Third Evaluation Round - Evaluation Report on Sweden on Transparency of Party Funding (Theme II)*, 16-19 February 2009, p. 9.

<sup>71</sup> The threshold was set at SEK 2,325 in 2019. Law Library. Library of Congress (2019). *Regulation of Foreign Involvement in Elections*. LL File No. 2019-017776. August 2019, Sweden.

<sup>72</sup> GRECO, *Third Evaluation Round – Second Addendum to the Second Compliance Report on Sweden. Transparency of Party Funding*, 3-7 December 2018.

is considered a criminal offence, if their purpose is to influence public opinion in matters fundamental to the governance of the country or a matter of national security.<sup>73</sup> Party regulations have not taken up this provision of the criminal code and, save for the circumstances specified above, foreign funding still remains possible.

In Denmark, the issue of reforming party finance regulation has entered the political agenda, but it has still not been fully implemented. As in the case of Sweden, GRECO has requested Denmark to act since 2009,<sup>74</sup> but has concluded that ‘no tangible progress’ had been made on the transparency of party funding at the end of 2016.<sup>75</sup> Notwithstanding some recent developments, GRECO remains ‘concerned by the lack of progress’ on a number of recommendations regarding the transparency of party financing (e.g. introducing a ban on anonymous donations to individual candidates; improving the monitoring system).<sup>76</sup>

A step forward on tackling foreign interference came in 2018, when the Danish government put forward a plan with eleven initiatives to ‘strengthen Danish resilience against foreign attempts to influence our democracy and society’.<sup>77</sup> Some of the initiatives targeted political parties – for instance, the government offered support to parties on tackling cyber-attacks, as well as information meetings on the risks of foreign influence in the electoral campaign. Also, an inter-ministerial task force coordinating the response to misinformation campaigns was set up.<sup>78</sup> In 2019, Denmark amended its Criminal Act, to protect itself against the threat of influence campaigns launched by foreign governments. For unlawful activities carried out in connection with national elections or the EP elections, the expected penalty is a maximum of twelve years imprisonment.<sup>79</sup>

In the Netherlands – another EU country where, as things currently stand, political parties and candidates are allowed to receive unlimited contributions from private individuals and legal entities, including donations from abroad<sup>80</sup> – in early 2018 the government announced its intention to introduce a ban to legislation in order to prevent external interference in domestic politics, following the recommendations of a report evaluating existing legislation on the financing of

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<sup>73</sup> Law Library. Library of Congress (2019). *Regulation of Foreign Involvement in Elections*. LL File No. 2019-017776. August 2019, Sweden.

<sup>74</sup> GRECO evaluation report noted that “there are no legal restrictions or limits in respect of the sources and amount of private funding and support that may be provided to political parties or individual candidates. Contributions may be given through any form of activity and by anyone, including individuals, organisations enterprises (whether private or public) as well as from foreign sources. Cf. GRECO, *Third Evaluation Round - Evaluation Report on Denmark on Transparency of Party Funding (Theme II)*, 29 June-2 July 2009, p. 7. Transparency International has also warned about the risks of corruption due to a lack of transparency regarding donations to political parties; see Transparency International (2012). *Secretive Political Financing Opens Door for Scandal, Says First Denmark Corruption Study*. 12 January 2012.

<sup>75</sup> GRECO, *Third Evaluation Round – Fifth Interim Compliance Report on Denmark*, 28 November – 2 December 2016.

<sup>76</sup> GRECO, *Third Evaluation Round – Second Compliance Report on Denmark*, 17 – 21 June 2019.

<sup>77</sup> Ministry of Foreign Affairs of Denmark (2018). *Strengthened safeguards against foreign influence on Danish elections and democracy*. <https://um.dk/en/news/newsdisplaypage/?newsid=1df5adbb-d1df-402b-b9ac-57fd4485ffa4> The Ministry cites the 2017 Intelligence Risk Assessment by the Danish Defence Intelligence Service, claiming that foreign influence campaigns may pose a growing threat against Denmark. Danish Defence Intelligence Service, *Intelligence Risk Assessment 2017*. [https://www.arctictoday.com/wp-content/uploads/2018/10/Risikovurdering2017\\_EnglishVersion.pdf](https://www.arctictoday.com/wp-content/uploads/2018/10/Risikovurdering2017_EnglishVersion.pdf)

<sup>78</sup> Baumann, A. and Reinholt Hansen, A., ‘Danmark får ny kommandocentral mod misinformation’, *Tjekdet*, 12 August 2020. <https://www.tjekdet.dk/danmark-faar-ny-kommandocentral-mod-misinformation>

<sup>79</sup> Law Library. Library of Congress (2019). *Government Responses to Disinformation on Social Media Platforms: Denmark*. LL File No. 2019-017919.

<sup>80</sup> OSCE (2017). *The Netherlands. Parliamentary Elections 15 March 2017*. OSCE/ODIHR Election Assessment Mission Final Report. Warsaw, 7 June 2017. <https://www.osce.org/files/f/documents/a/d/321821.pdf>

political parties.<sup>81</sup> The political debate on the issue had started earlier, with a motion adopted in 2016 by the lower house, asking the government to make proposals to restrict party financing.<sup>82</sup>

In 2019, the government led by Mark Rutte announced that it would change the existing legislation, while the actual proposal was agreed upon by the cabinet in February 2020.<sup>83</sup> This proposal aims to prohibit party donations from outside the EU (except from Dutch expatriates) and to introduce complete transparency vis-à-vis EU donations from outside the Netherlands. At the time of writing, the Dutch lower house was dealing with the legislative proposal.<sup>84</sup>

### 2.3. A not so rosy picture: regulatory loopholes

The existence in most EU states of party regulations banning foreign funding should provide a difficult environment for foreign interferences. Indeed, party laws have been regarded as a barrier against Steve Bannon's plan to support far-right populist parties in Europe ahead of the 2019 EP elections, as his campaign operations would have broken the law in most of the countries where he planned to intervene.<sup>85</sup>

Yet, notwithstanding the tighter regulatory framework, cases of foreign party funding and election interference in the EU, but also beyond Europe, have grown. In its report on *Financing Democracy*, the OECD put a spotlight on the issue. While acknowledging that bans on foreign funding are in place in many OECD countries, it noted that through money-laundering schemes and other techniques – like setting up party branches disguised as other organisations, such as think tanks or foundations – foreign states were often able to get around them.<sup>86</sup>

In a recent systematic attempt to map cases of foreign funding to political parties, Josh Rudolph and Thomas Morley identify seven types of 'malign finance'.<sup>87</sup> Through legal loopholes, foreign states have been able to 'sneak in' seeking to influence the domestic politics of another state. Such covert operations are difficult to identify and trace, as they are designed *ad hoc* to hide ties to the state promoting them. The seven strategies used by foreign states – mainly Russia and China – to support foreign parties are: (i) in-kind contributions, that is intangible or difficult-to-value benefits for political campaigns; (ii) straw donors with domestic citizenship or covert agents; (iii) shell companies and businesses; (iv) non-profit organizations, which are not required to disclose the identity of their donors; (v) online political advertisements, whose regulations are generally looser than for the print and broadcasting media; (vi) media outlets funded or supported from abroad; (vii) emerging technologies, such as cryptocurrencies and cashless payments, offering anonymity.<sup>88</sup>

In the *Staff working document accompanying the report on the 2019 EP elections*, the European Commission observed that interferences can take many forms and occur 'through direct and

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<sup>81</sup> Kroet, C., 'Dutch ban on foreign funding for political parties would hit far-right PVV', *Politico*, 1 January 2018. For the report: <https://kennisopenbaarbestuur.nl/rapporten-publicaties/het-publieke-belang-van-politieke-partijen/>

<sup>82</sup> Parlementaire Monitor (2016). Motie van het lid Amhaouch c.s. over buitenlandse financiering van politieke partijen en campagnes, KST3427022, 22 December 2016.

<sup>83</sup> Rijksoverheid (2020), *Ministerraad stemt in met wijziging van de Wet financiering politieke partijen*, 07 February 2020. <https://www.rijksoverheid.nl/actueel/nieuws/2020/02/07/ministerraad-stemt-in-met-wijziging-van-de-wet-financiering-politieke-partijen>

<sup>84</sup> The Author of this report is grateful to Dr Christel Koop for her advice.

<sup>85</sup> Lewis, P. & Rankin J. 'Steve Bannon's far right Europe operation undermined by election laws'. *The Guardian*, 21.11.2018.

<sup>86</sup> OECD. *Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture*, p. 54.

<sup>87</sup> Rudolph J. and Morley, T. *Covert Foreign Money. Financial loopholes exploited by authoritarians to fund political interference in democracies*.

<sup>88</sup> Rudolph J. and Morley, T. *Covert Foreign Money. Financial loopholes exploited by authoritarians to fund political interference in democracies*, pp. 9-11.



indirect opaque financial support of political actors, campaigns or other involved bodies'.<sup>89</sup> To detect the possibility of foreign interference via party funding, the European Cooperation Network on Elections (cf. Chapter 1) carried out a mapping of the electoral rules currently in place in EU member states. This mapping exercise confirmed that most, but not all members have a ban on foreign funding, but only about half require transparency for paid political adverts and just over a third have rules that control the broadcast media in the electoral context, which may allow foreign actors to circumvent existing restrictions and support political parties.<sup>90</sup>

## 2.4. Through the backdoor? Cases of foreign funding to parties

Loopholes in the legal regulations have been used by foreign states seeking to influence the domestic politics of another country. This section reviews some prominent cases where documented evidence on foreign party funding exists, and a mix of techniques have been implemented to channel funds or support. Before exploring the cases, it is important to make a methodological point. This is a field where it is notoriously difficult to gather hard evidence and 'very difficult to prove exactly how foreign actors try to interfere'.<sup>91</sup>

In what follows, the comparative overview of the strategies to channel funding to parties and campaigns abroad is based on the systematic – and selective – collection of cases made by Rudolph and Morley in their *Covert Foreign Money*.<sup>92</sup> The comparative map presented below (Table 2) is followed by an in-depth review of a few selected cases that are illustrative of the range of techniques used by foreign states to finance or support parties in the EU. Here, sources have been carefully checked, and they have only been selected when providing robust evidence of their allegations. Whenever the evidence is contested, the presentation of the cases explicitly acknowledges it.

What emerges from the comparative analysis is a complex picture, in which attempts, successful or otherwise, to support foreign parties rarely take place in an isolated fashion. Rather, they are often part and parcel of more systematic influence campaigns, in which different tools are used, with a mix of covert and overt tactics, and several actors play a role. They may also be part of a broader strategy to undermine several countries at once, within the EU or among Western democracies, as it was feared that it could have occurred in the run-up to the 2019 EP elections.

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<sup>89</sup> European Commission. *Commission staff working document. Accompanying the document Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee. Report on the 2019 elections to the European Parliament*. SWD(2020) 113 final. Brussels, 19.6.2020, p. 32.

<sup>90</sup> European Commission. *Commission staff working document*, p. 41. Incidentally, the European Cooperation Network on Election has flagged the issue of 'transparency of political advertising and party funding' for future work.

<sup>91</sup> European Parliament. Special Committee on Foreign Interference in All Democratic Processes in the European Union, including Disinformation. *Working Document on the state of the foreign interference in the European Union, including disinformation*, p. 1.

<sup>92</sup> As Rudolph J. and Morley, T. *Covert Foreign Money. Financial loopholes exploited by authoritarians to fund political interference in democracies*, p. 8, indicate: 'Our data set and Appendix A only include incidents where there has been credible public evidence, assessed on the extent and reliability of the sources and outlets'.

**Table 2:** Evidence of covert foreign funding or support to parties in targeted EU countries

Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
In-kind donations	Straw donors and agents	Shell companies	Non-profits, foundations, think-tanks	Online advertisement	Media outlets	Cryptocurrencies and cashless payments
Czech Republic France Germany Sweden UK	Italy UK	France Italy Latvia UK	Austria* Estonia Germany Italy Poland Netherlands UK	n/a	Estonia Germany Latvia Lithuania Sweden	UK

Source: Re-elaboration of data from Rudolph and Morley (2020). \*Austria was not included among the cases (Rudolph and Morley 2020, p. 31, footnote 336). Note that the table only includes EU countries and the UK.

To start with in-kind donations (Type-I), in March 2014 the French party *Front National* (from June 2018, *Rassemblement National*) received a loan from a Russian bank, possibly linked to the support that the party leader, Marine Le Pen, provided to the referendum backing the annexation of Crimea by Russia. In 2015, the French newspaper *Mediapart* published a series of text messages hacked from the mobile phone of a senior Kremlin official.<sup>93</sup> In the texts, the Russians show their appreciation of Le Pen's behaviour, and a Kremlin official wrote that 'it will be necessary to thank the French in one way or another'.<sup>94</sup> Eight months later, the FN received EUR 9.4 million through a loan from First Czech Russian Bank. Settled in Moscow, the bank was part of a Russian pipeline construction company that was owned by Gennady Timchenko, close to President Putin.<sup>95</sup> According to *Mediapart*, Alexander Babakov – Russian senator and Putin's advisor<sup>96</sup> – helped securing the loan.<sup>97</sup>

Two months after the loan was signed, its existence was revealed by another *Mediapart* report.<sup>98</sup> In an interview, Le Pen publicly acknowledged the existence of the loan, denying that the money could influence the party's political positions. She justified the choice of a Russian bank claiming that

<sup>93</sup> Duparc, A. Laske, K. and Turchi, M. 'Crimea, Russian Loans and the Le Pens: the Kremlin's intriguing SMS messages', *Mediapart*, 4.4.2015, [https://www.mediapart.fr/en/journal/france/040415/crimea-russian-loans-and-le-pens-kremlins-intriguing-sms-messages?\\_locale=en&onglet=full](https://www.mediapart.fr/en/journal/france/040415/crimea-russian-loans-and-le-pens-kremlins-intriguing-sms-messages?_locale=en&onglet=full)

<sup>94</sup> Duparc, A. Laske, K. and Turchi, M. 'Crimea, Russian Loans and the Le Pens: the Kremlin's intriguing SMS messages'.

<sup>95</sup> Sonne, P. 'A Russian bank gave Marine Le Pen's party a loan. Then weird things began happening' *The Washington Post*, 27.12.2018. [https://www.washingtonpost.com/world/national-security/a-russian-bank-gave-marine-le-pens-party-a-loan-then-weird-things-began-happening/2018/12/27/960c7906-d320-11e8-a275-81c671a50422\\_story.html](https://www.washingtonpost.com/world/national-security/a-russian-bank-gave-marine-le-pens-party-a-loan-then-weird-things-began-happening/2018/12/27/960c7906-d320-11e8-a275-81c671a50422_story.html)

<sup>96</sup> The EU and the US sanctioned Babakov for his activities in Ukraine.

<sup>97</sup> Duparc, A. Laske, K. and Turchi, M. 'La vraie histoire du financement russe de Le Pen', *Mediapart*, 2.5.2017. <https://www.mediapart.fr/journal/france/020517/la-vraie-histoire-du-financement-russe-de-le-pen>

<sup>98</sup> Turchi, M. 'How a Russian bank gave France's far-right Front National party 9mln euros' *Mediapart*, 24.11.2014. <https://www.mediapart.fr/en/journal/international/241114/how-russian-bank-gave-frances-far-right-front-national-party-9mln-euros>



French banks would not lend to the party.<sup>99</sup> Since then, the FN leader has no longer made a secret of taking loans from Russia. In 2016, she openly requested EUR 27 million from Russia to finance the 2017 presidential election campaign.<sup>100</sup>

The Italian *Lega* has been the subject of media reports suggesting that a complex financial arrangement – involving intermediaries and shell companies (Type II and Type III) – was constructed to fund the party. A recording published by BuzzFeed – and subsequently reported by Reuters and the New York Times – linked the operation to Gianluca Savoini, a long-standing member of staff of Matteo Salvini, the party leader.<sup>101</sup> On 17 October 2018, Salvini made an official trip to Moscow in his capacity as the Minister of Interior. During the visit, Salvini reportedly met Russian Deputy Prime Minister Dmitry Kozak, responsible for energy affairs.<sup>102</sup> As on other occasions, Savoini was also in Moscow during Salvini's visit.<sup>103</sup> On 18 October, Savoini and a group of other Italians met a group of Russians in the lobby of Moscow's Metropol Hotel. The recording published by BuzzFeed reports that they discussed a deal to covertly funnel Russian oil money to the *Lega*.<sup>104</sup>

Reportedly, the deal was to involve a major Russian oil company selling at least 3 million metric tons of fuel over the course of a year to the Italian oil company Eni (which has always denied any involvement).<sup>105</sup> The operations were to be carried out through intermediaries, with the sellers applying a discounted rate to these transactions. BuzzFeed valued the potential profit from such a discount at \$65 million.<sup>106</sup> In July 2019, *L'Espresso* released documents containing the details of two proposals of fuel selling, one sent to Rosneft and one to Gazprom, whose terms closely matched those of the Metropol discussion.<sup>107</sup>

Salvini has always strongly denied that *Lega* ever received any funding from Russia<sup>108</sup>, and BuzzFeed wrote that 'it's unclear whether the agreement negotiated at the Metropol hotel was ever executed'.<sup>109</sup> Asked about his presence in the recorded meeting, Savoini claimed that he went to the Metropol to meet local entrepreneurs.<sup>110</sup> Prosecutors in Milan have opened an investigation into

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<sup>99</sup> Mestre, A. 'Marine Le Pen justifie le prêt russe du FN'. *Le Monde*, 23.11.2014. [https://www.lemonde.fr/politique/article/2014/11/23/marine-le-pen-justifie-le-pret-russe-du-fn\\_4528041\\_823448.html](https://www.lemonde.fr/politique/article/2014/11/23/marine-le-pen-justifie-le-pret-russe-du-fn_4528041_823448.html)

<sup>100</sup> Bremner, C. 'Le Pen's party asks Russia for €27m loan'. *The Times*, 19.2.2016. <https://www.thetimes.co.uk/article/le-pens-party-asks-russia-for-euro27m-loan-kzxq8m7s30v>

<sup>101</sup> Nardelli, A. 'The Unofficial Kremlin Fixer of Italy's Interior Minister Sat In Official Meetings in Moscow. Nobody Seems to Know Why'. *BuzzFeed*, 18.7.2018 <https://www.buzzfeednews.com/article/albertonardelli/matteo-salvini-gianluca-savoini-moscow> and Nardelli, A. 'I Took Part in The Moscow Oil Deal Negotiation with Salvini's Aide, Says an Italian Lawyer'. *BuzzFeed*, 13.7.2019 <https://www.buzzfeednews.com/article/albertonardelli/italian-lawyer-moscow-oil-deal-negotiation>

<sup>102</sup> Tizian G. and S. Vergine, *Il Libro Nero della Lega*, Bari-Roma, Editori Laterza, 2019, pp. 157-58.

<sup>103</sup> Nardelli, A. 'The Unofficial Kremlin Fixer of Italy's Interior Minister Sat In Official Meetings in Moscow' and Tizian, G. and S. Vergine, '3 million for Salvini'. *L'Espresso*, 28.2.2019. <https://espresso.repubblica.it/attualita/2019/02/28/news/3-million-for-salvini-1.332104>

<sup>104</sup> Nardelli, A. 'Revealed: The Explosive Secret Recording That Shows How Russia Tried to Funnel Millions to the "European Trump"'. *BuzzFeed*, 10.7.2019. <https://www.buzzfeednews.com/article/albertonardelli/salvini-russia-oil-deal-secret-recording>; for the full transcript of the recording: <https://www.buzzfeednews.com/article/albertonardelli/salvini-russia-oil-deal-secret-recording>

<sup>105</sup> Nardelli, A. 'Revealed'.

<sup>106</sup> Nardelli, A., Grozev, C., Kozyreva, T. and Dobrokhoto, R. 'Unmasked'.

<sup>107</sup> Tizian, G. and S. Vergine. 'La trattativa Lega-Russia: ecco le carte segrete'. 18.7.2019. <https://espresso.repubblica.it/plus/articoli/2019/07/18/news/la-trattativaci-vediamo-nella-hall-ecco-i-documenti-1.337036>

<sup>108</sup> Reuters, 'Italy's Salvini denies his League party took money from Russians'. 10.7.2019.

<sup>109</sup> Nardelli, A. 'Revealed'.

<sup>110</sup> Euronews, 'Italian prosecutors launch probe into Russia collusion allegations', 11.07.2019.

the deal, in which Savoini is accused of international corruption<sup>111</sup> and suspected to have acted as a *Lega* agent at the Metropol meeting.<sup>112</sup>

Straw donors (Type-II) are suspected of channelling foreign money into the UK. A report by the British Parliament Intelligence and Security Committee (ISC) dedicates a chapter to Russian expatriates, warning that 'the U.K. now faces a threat from Russia within its own borders' in the form of 'Russian oligarchs', members of 'Putin-linked elites'.<sup>113</sup> The *Sunday Times* claimed that the report's classified annex names nine Russian business individuals who have donated to the Conservative Party.<sup>114</sup>

Companies with foreign funders have also been investigated as possible sources of foreign resources to British parties (Type-III). In the months leading up to the 2016 Brexit referendum, the Leave.EU campaign received £8 million from British businessman Arron Banks.<sup>115</sup> According to some reconstructions, Banks attended several encounters with high-ranking Russian officials before the referendum.<sup>116</sup> During these meetings, the Russians offered Banks a gold and diamond mines deal.<sup>117</sup> Banks repeatedly denied any involvement with Russian officials, or that Russian money played a role in the Leave campaign.<sup>118</sup> Nevertheless, Banks had raised the donation funds by borrowing £6 million from Rock Holdings Ltd., an Isle of Man company that Banks co-owns with Jim Mellon,<sup>119</sup> a business partner and fellow backer of Brexit who invested in at least one of the deals with Russia.<sup>120</sup> The U.K. Electoral Commission referred the case to the National Crime Agency (NCA), suspecting that Banks was not the 'true source' of the funds.<sup>121</sup> The NCA concluded that it has not received any evidence to suggest that Mr Banks and his companies received funding from any third

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<sup>111</sup> Reuters, 'Italian prosecutors probe allegations of League oil deal: sources'. 11.7.2019. <https://www.reuters.com/article/us-italy-salvini-russia-idUSKCN1U61J1>

<sup>112</sup> Huffington Post, 'Per I PM di Milano Savoini era al Metropol come uomo della Lega'. 24.07.2019. [https://www.huffingtonpost.it/entry/conte-chiede-salvini-non-risponde-chi-ha-pagato-la-missione-di-savoini-a-mosca\\_it\\_5d37fa66e4b020cd994b6cf0](https://www.huffingtonpost.it/entry/conte-chiede-salvini-non-risponde-chi-ha-pagato-la-missione-di-savoini-a-mosca_it_5d37fa66e4b020cd994b6cf0)

<sup>113</sup> Intelligence and Security Committee, *Russia Report*. 21.07.2020, pp. 15-18, 22. [https://isc.independent.gov.uk/wp-content/uploads/2021/01/20200721\\_HC632\\_CCS001\\_CCS1019402408-001\\_ISC\\_Russia\\_Report\\_Web\\_Accessible.pdf](https://isc.independent.gov.uk/wp-content/uploads/2021/01/20200721_HC632_CCS001_CCS1019402408-001_ISC_Russia_Report_Web_Accessible.pdf)

<sup>114</sup> Harper, T. and Wheeler, C. 'Russian Tory donors named in secret report'. *The Sunday Times*, 10.11.2019. <https://www.thetimes.co.uk/article/russian-tory-donors-named-in-secret-report-z98nqpkx0>

<sup>115</sup> Rudolph, J. 'Use Brexit delay to investigate Russian money'. *Atlantic Council*, 15.03.2019. <https://www.atlanticcouncil.org/blogs/new-atlanticist/use-brexit-delay-to-investigate-russian-money/>

<sup>116</sup> Cadwalladr, C. and Jukes, P. 'Arron Banks 'met Russian officials multiple times before Brexit vote' *The Guardian*, 09.06.2018. <https://www.theguardian.com/politics/2018/jun/09/arron-banks-russia-brexit-meeting> and Harding, L. *Shadow State: Murder, Mayhem, and Russia's Attack of the West*, New York, HarperCollins, 2020, pp.211-212.

<sup>117</sup> Harding, L. and Townsend, M. 'Timid, incompetent ... how our spies missed Russian bid to sway Brexit'. *The Guardian*, 26.07.2020. <https://www.theguardian.com/world/2020/jul/26/timid-incompetent-why-did-uk-spoops-miss-russian-bid-to-sway-brexit-russia-report> and Harding, L. 'Revealed: details of exclusive Russian deal offered to Arron Banks in Brexit run-up'. *The Guardian*, 9.8.2018. <https://www.theguardian.com/uk-news/2018/aug/09/revealed-detail-of-exclusive-russian-deal-offered-to-arron-banks-in-brexit-run-up>

<sup>118</sup> Sabbagh, D. 'Arron Banks tells MPs: I have no business interests in Russia'. *The Guardian*, 12.06.2018. <https://www.theguardian.com/politics/2018/jun/12/arron-banks-tells-mps-i-have-no-business-interests-in-russia>

<sup>119</sup> Belton, C. *Putin's people: how the KGB took back Russia and then took on the West*. Farrar, Straus and Giroux, pp. 440.

<sup>120</sup> Kirkpatrick, D. and Rosenberg, M. 'Russians Offered Business Deals to Brexit's Biggest Backer'. *The New York Times* 29.6.2018. <https://www.nytimes.com/2018/06/29/world/europe/russia-britain-brexit-arron-banks.html> and Cadwalladr, C. and Jukes, P. 'Revealed: Leave.EU campaign met Russian officials as many as 11 times'. *The Guardian*, 8.7.2018. <https://www.theguardian.com/uk-news/2018/jul/08/revealed-leaveeu-campaign-met-russian-officials-as-many-as-11-times>

<sup>121</sup> The Electoral Commission, *Investigation into payments made to Better for the Country and Leave.EU*, 1.11.2018. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-enforcement-work/investigations/investigation-payments-made-better-country-and-leaveeu>

party to fund the loans subject to the investigation, or that Mr Banks acted as an agent on behalf of a third party.<sup>122</sup>

In the Netherlands, most political parties and four online platforms (Facebook, Google, Snapchat, TikTok) pledged to limit potential interferences of foreign states through online advertisement (Type-V) by signing a nonbinding Code of Conduct Transparency Online Political Advertisements on 9 February 2021.<sup>123</sup>

Following a request by the Ministry of the Interior, negotiations on the Code of Conduct were led by an intergovernmental organization, the International Institute for Democracy and Electoral Assistance (International IDEA).<sup>124</sup> Despite the fact that ‘the Netherlands seems to have been spared from significant incidents so far’, with the code political parties undertook to ‘refuse direct purchases of political advertisements by foreign actors’ and ‘refrain from receiving foreign funding to pay for online political advertisements, other than from party members living abroad’. Similarly, online platforms pledged to ‘ban cross-border political advertisements from outside the European Union’.<sup>125</sup>

### 3. Party regulation at the EU level

According to article 10(4) TEU, ‘political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union’. For a formal definition, based on Regulation 1141/2014,<sup>126</sup> a European political party (in brief: Europarty) is ‘a political alliance which pursues political objectives and is registered with the Authority for European political parties and foundations’. Europarties are made up of national parties and/or individuals represented in several member states.

The EU’s ‘extra-parliamentary parties’ or, as they used to be called, ‘transnational federations’ were created ahead of the first EP direct election in 1979. For several decades Europarties have been marginal actors, loosely coordinating member parties ahead of the EP elections. However, their current role in the EU political system has become significantly more relevant. The Treaty of Lisbon gave them the important role of enhancing the EU’s ‘representative democracy’ and Europarties have been influential in the selection of the President of the European Commission through the so-called *Spitzenkandidaten* process. In addition, the political groups in the EP, to which Europarties, albeit organisationally distinct, are linked, shape the EU’s legislation through the ordinary legislative procedure.

Given this new institutional context, there may be an incentive for foreign states to seek to influence the EP elections or support Europarties with ideologically closer positions. As we shall see in the following sections, recent reforms of the regulations on the financing of Europarties and their

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<sup>122</sup> National Crime Agency, *Public statement on NCA investigation into suspected EU referendum offences*, 24.9.2019. <https://nationalcrimeagency.gov.uk/news/public-statement-on-nca-investigation-into-suspected-eu-referendum-offences>

<sup>123</sup> IDEA, *First national Code of Conduct on online political advertising in the European Union signed by Dutch political parties and global online platforms*, 9.2.2021. <https://www.idea.int/news-media/news/first-national-code-conduct-online-political-advertising-european-union-signed-dutch>; Ministry of the Interior and Kingdom Relations and IDEA, *Dutch Code of Conduct Transparency Online Political Advertisements*. <https://www.idea.int/sites/default/files/news/news-pdfs/Dutch-Code-of-Conduct-transparency-online-political-advertisements-EN.pdf>

<sup>124</sup> IDEA, *First national Code of Conduct on online political advertising in the European Union signed by Dutch political parties and global online platforms*

<sup>125</sup> Ministry of the Interior and Kingdom Relations and IDEA, *Dutch Code of Conduct Transparency Online Political Advertisements*.

<sup>126</sup> Art. 2(3). Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations, 22.10.2014.

foundations have banned foreign funding. Yet, as the previous chapter has shown, there are subtler ways for foreign elements to support political parties. Given that a new legislative proposal on the regulation of Europarties is expected in 2021, the lessons that have been learnt should be considered. In addition, as national parties are key contributors to Europarties' budgets, the issue of funding transparency should be addressed at the national level.

### 3.1. Regulating Europarties since Maastricht

For several decades since their creation, Europarties had no formal recognition in the EU legal system. This situation finally changed in 1992, when the Treaty of Maastricht introduced a 'party article' (art. 138A). Notwithstanding the ambition of the party article, the new framework fell short of providing either legal status or independent financial resources. Indeed, several years later, a special report of the European Court of Auditors on the financial arrangements for Europarties was still critical of the modalities through which Europarties were financially supported, as they relied on the resources provided by the EP.<sup>127</sup>

With the Treaty of Nice, the party article (art. 191) was complemented by a second paragraph, indicating that the Council, using the procedure detailed by art. 251, should lay down rules for the funding of Europarties. Notwithstanding the important inclusion of a legal basis, declaration no. 11 ruled out the possibility that Europarties could campaign in the EU member countries, most importantly in the context of the EP elections.

A significant breakthrough was achieved in 2003, when Regulation No. 2004/2003 on political parties at European level and the rules regarding their funding was adopted. This regulation introduced public direct funding, which came from the general budget of the Union, and gave them legal personality in the member state in which they were registered. The regulation gave the EP the power to verify that Europarties met the conditions required for their financing. By providing them with financial autonomy from political groups, this regulation clearly represented a very important step for their institutionalisation.

However, the provision that conditioned the allocation of EU public funds on 25 % co-financing from other sources, made the national parties decisive in constituting and maintaining Europarties. Given that such resources could be obtained either through direct contributions from member parties – up to a ceiling of 40 % of the total – or through donations, most likely from party networks in society and the economic sphere, the largest and richest national parties could exercise a dominant influence.<sup>128</sup>

In 2007, Regulation 1524/2007 introduced European political foundations, defined as entities or networks of entities which have legal personality in a member state, are affiliated with a political party at European level and which, through their activities, complement those of political parties. While foundations and Europarties are two separate legal entities, the former could only apply for funding through the political party to which they are affiliated. Importantly, the amended regulation finally allowed Europarties to finance campaigns for the EP elections. However, these resources could not be used for the direct or indirect funding of national political parties or candidates, or referendum campaigns.

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<sup>127</sup> Court of Auditors Special Report No 13/2000 on the expenditure of the European Parliament's political groups, together with the European Parliament's replies. 28.6.2000.

<sup>128</sup> Bardi, L., Bressanelli, E., Calossi, E., Cicchi, L., Gagatsek, W. and E. Pizzimenti, *Political Parties and Political Foundations at European level. Challenges and Opportunities*, European Parliament, Study, 2014, p. 38.

It was the Treaty of Lisbon that, in its section on the democratic life of the Union, gave a new centrality to Europarties. Following Lisbon, a regulation of European political parties and their foundations was to be adopted in accordance with the ordinary legislative procedure (art. 224 TFEU). In 2011, a parliamentary report on the application of regulation 2004/2003 suggested amending the party regulation to introduce stronger sanctions for breaking financial rules and to enhance the transparency of private funding. Reducing the amount of private resources to be collected by each Europarty to only 10 % of its total budget was also proposed.

Following this report, in 2012 the Commission made a proposal to reform the party regulation. This proposal was critically received by the European Court of Auditors. In its opinion, the Court noted, among other things, how the draft regulation did not specifically regulate donations from private entities based in non-member countries or from international organisations, as it only prohibited donations from public authorities in non-member countries and undertakings controlled by these public authorities. Moreover, the Court observed that the Commission did not introduce any rule concerning loans, their sources and their terms and conditions. Without such provisions, the Court warned that there was a risk of the rules on donations and contributions being circumvented, for instance through loans at particularly advantageous conditions.<sup>129</sup>

### 3.2. Funding Europarties: tightening regulations

Regulation 1141/2014, repealing regulation 2004/2003, largely took such criticisms on board, and introduced several important changes to the rules on Europarty funding. The new rules have been reformed to allow parties to become 'more visible' and 'effective' actors and, for that purpose, they have acquired a 'European legal personality' (art. 12). The regulation placed a stronger emphasis on the respect of the fundamental values of the EU, it created an Authority on Political Parties and Foundations at European level (hereinafter, the Authority), with monitoring and sanctioning powers, and it introduced additional limitations and prohibitions on certain types of donations. More generally, transparency requirements were strengthened.

Before the 2014 reform, limitations applied to donations from anonymous contributors, from undertakings under direct or indirect influence of public authorities, and from any public authority from a third country. As per regulation 2004/2003, parties could not accept anonymous contributions or donations from the budget of political groups in the EP. The new regulation further restricted such requirements (cf. Table 3). The article on foreign donations in the new regulation – art. 20(5) – is worth reporting in full, as it prescribes that Europarties and their foundations shall not accept:

*(c) donations from any public authority from a Member State or a third country, or from any undertaking over which such a public authority may exercise, directly or indirectly, a dominant influence by virtue of its ownership of it, its financial participation therein, or the rules which govern it; or*

*(d) donations from any private entities based in a third country or from individuals from a third country who are not entitled to vote in elections to the European Parliament.*

Therefore, the new regulation added a complete ban on any private funding – either from legal entities or individuals without voting rights in the EP elections – based in a third country. It also

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<sup>129</sup> Court of Auditors Opinion No 1/2013 concerning the proposal for a regulation of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations and concerning the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 966/2012 as regards the financing of European political parties.



introduced an obligation to declare the sources of funding and the donors, with the exception of donations equal or below EUR 1500 per year and per donor while, for donations between EUR 1500 and 3000, the prior written consent of the donor is needed for disclosure. Single donations which exceed the value of EUR 12000 must immediately be reported to the Authority in writing and donations exceeding EUR 18 000 are forbidden.

While the threshold for disclosure and the ban on donations have been raised – i.e. the former from EUR 500 to EUR 1500, the latter from EUR 12000 to EUR 18000 –, the monitoring and sanctioning system has been strengthened, with onerous financial sanctions – excluding Europarties from funding for up to 10 years – and the Authority has been granted the power to de-register parties and foundations.

Notwithstanding such broad changes, demands to further amend the regulation were raised even before the new regulatory regime was implemented. In April 2016, in a letter addressed to the President of the EP, Martin Schulz, the leaders of the three largest political groups in the EP – the EPP, the S&D and the ALDE – asked to reduce the 15 % co-financing obligation. This request, which was later also supported by the Greens-EFA,<sup>130</sup> came about because some Europarties, particularly on the right-end side of the political spectrum, were suspected of irregularities. For instance, the EP bureau documented how one party and its affiliated foundation used charity boxes to collect small amounts of cash during internal meetings in 2016, while another party organised several events in 2016 leading to the indirect financing of national parties, which is also forbidden by the regulation.<sup>131</sup>

A case in point of misuse of EU funds was the system put in place by the Eurosceptic Alliance for Direct Democracy in Europe (ADDE), through which it received private donations which were later 'paid back' to the donor(s), in larger amounts, via contracts. The Swedish Health Consumer powerhouse, for instance, received a EUR 20 000 contract from the ADDE after donating EURO 12 000. Its funding was effectively suspended in 2016 after an audit disclosed the (illegal) use of EU funds in the 2015 British general election campaign.<sup>132</sup> Similarly, another investigation discovered that the Movement for a Europe of Liberties and Democracy (MELD), and its related foundation had used EU funding to promote the Danish *Dansk Folkeparti* during a general election and an EU referendum campaign, and to organise the activities of the party *Solidarna Polska* in Poland.<sup>133</sup>

Therefore, the Commission proposed an amended regulation tightening the rules for the registration of Europarties,<sup>134</sup> ruling out the possibility that individual parliamentarians, rather than national parties, could sponsor them. In addition, to avoid circular money flows and other dubious practices used to meet the co-financing requirements, the co-financing threshold was lowered to 10 % for parties and to 5 % for foundations. As the Court of Auditors noted in its opinion, these were welcome changes in order to increase transparency.<sup>135</sup> As Regulation 2018/673 entered into force,

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<sup>130</sup> Nielsen, N. 'New EU party finance rules short circuit accountability'. *Euobserver*, 19.4.2018.

<sup>131</sup> Nielsen, N. 'EU passes new rules to prevent far-right funding abuse'. *Euobserver*, 17.4.2018.

<sup>132</sup> Rankin, J. 'Defunct Eurosceptic party linked to Ukip asked to repay €1.1m', *The Guardian*, 30.5.2018.

<sup>133</sup> Jacobsen, H. 'European Parliament tells MEP to return €400,000', *Euractiv*, 6.5.2016

<sup>134</sup> Procedure 2017/0219/COD, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No. 1141/2014 of the European Parliament and the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations.

<sup>135</sup> Court of Auditors Opinion No 5/2017 concerning the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 1141/2014 of the European Parliament and the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations.

the Authority deregistered two Europarties and one political foundation, as they were no longer compliant with the regulations.<sup>136</sup>

However, the decision to reduce the share of private funding was not without its critics, as it arguably binds Europarties even more tightly to Brussels, loosening their already feeble ties to civil society. In addition, the proliferation of hard-to-value in-kind donations and circular financial flows was not effectively tackled by the rules. The lowering of the threshold for private funding is deemed not to have gone far enough, and transparency rules are not considered sufficient regarding both the sources of donations and how money is spent.<sup>137</sup>

A further amendment came with Regulation 2019/493,<sup>138</sup> which introduced a verification procedure and sanctions for parties deliberately attempting to influence the outcome of EP elections by exploiting infringements of personal data protection rules. While national supervisory authorities are in charge of monitoring breaches of the General Data Protection Regulation (GDPR), it is the Authority that decides on imposing sanctions, consisting of a penalty amounting to 5 % of the annual budget of Europarties or foundations and the suspension of EU funding for the following year. While the new regulation only targets Europarties, as the EU has no jurisdiction over national parties, the EU also recommends that national governments impose stricter transparency requirements for online advertising.<sup>139</sup>

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<sup>136</sup> They were the Alliance of European National Movements and Alliance of Peace and Freedom, and the foundation Europa Terra Nostra.

<sup>137</sup> Kergueno, R. 'Fraud and boats: Funding European Political Parties'. *Transparency International EU*, 9.11.2017.

<sup>138</sup> Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament, 25.3.2019.

<sup>139</sup> Khan, M. 'EU targets European political parties that misuse voters' data', *Financial Times*, 26.8.2018.

**Table 3:** Regulating the funding of Europarties (2003-2020)

	Regulation 2004/2003	Regulation 1524/2007	Regulation 1141/2014
Funding	No more than 75 % of the annual budget from the general budget of the EU	No more than 85 % of the annual budget from the general budget of the EU	No more than 85 % of the overall eligible expenditure from the EU budget <i>* Up to 90 % of the annual reimbursable expenditure can be covered by the EU budget (Regulation 2018/673)</i>
Contributions cap	40 % max of the annual budget from member political parties	40 % max of the annual budget of a European political party from national political parties or a natural person	40 % max of the annual budget of a European political party from members EUR 18000 per year per natural person, unless parliamentarian
Donations cap	12000 per year and per donor from any natural or legal person	12000 per year and per donor from any natural or legal person	18000 per donor per year from any natural or legal person
Ban on			
- Anonymous donations	Banned	Banned	Banned
- Foreign donations	n/a	Ban on donations from any public authority from (a Member State or) a third country, including from any undertaking over which they have dominant influence	Ban on donations from any public authority from (a Member State or) a third country, or from any undertaking over which such a public authority may exercise, directly or indirectly, a dominant influence by virtue of its ownership of it, its financial participation therein, or the rules which govern it; or donations from any private entities based in a third country or from individuals from a third country who are not entitled to vote in EP elections



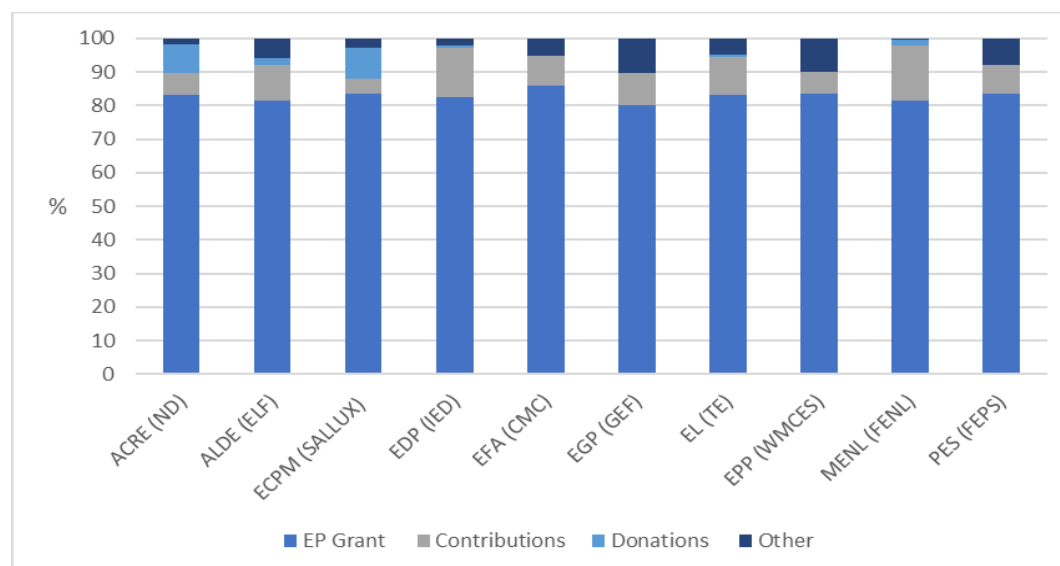
<p>- Other banned sources</p>	<p>Donations from the EP groups Any undertaking over which public authorities have dominant influence</p>	<p>Donations from the EP groups Any undertaking over which public authorities have dominant influence</p>	<p>Donations from the EP groups Any undertaking over which public authorities have dominant influence</p>
<p>Disclosure</p>	<p>Declare sources of funding and donations Except donations not exceeding EUR 500</p>	<p>Declare sources of funding and donors Except donations not exceeding EUR 500 per year and per donor</p>	<p>Public disclosure of the donors' names and the details of their corresponding donations is mandatory for any donation above EUR 3000. The disclosure of the donors' identity for donations between EUR 1500 and EUR 3000 can take place only with their written consent or is otherwise reported as a 'minor donation'. Donations received within six months prior to elections to the EP shall be reported on a weekly basis to the Authority in writing. Single donations over EUR 12000 shall be immediately reported to the Authority in writing</p>
<p>Monitoring / control</p>	<p>Control shall be exercised by the European Court of Auditors. on the basis of annual certification by an external and independent audit, to be transmitted, within six months of the end of the financial year concerned, to the EP</p>	<p>Control shall be exercised by the European Court of Auditors on the basis of annual certification by an external and independent audit, to be transmitted, within six months of the end of the financial year concerned, to the EP</p>	<p>Control of compliance is exercised, in cooperation, by the Authority, by the Authorising Officer of the EP and by the competent Member States. In addition, The Court of Auditors shall exercise its audit powers and OLAF may carry out its investigations.</p>
<p>Sanctions</p>	<p>Exclusion from funding  Any funds improperly received by political parties at European level from the general budget of the European Union shall be refunded to that budget.</p>	<p>Exclusion from funding  Any funds improperly received by political parties at European level from the general budget of the European Union shall be refunded to that budget.</p>	<ol style="list-style-type: none"> <li>1. Removing the Europarty from the Registry (when it had been found guilty of illegal activities, when it no longer fulfils the conditions or upon request of a Member State)</li> <li>2. Financial sanctions (for both quantifiable and non-quantifiable infringements - non-compliance, failure to transmit the list of donors, criminal conviction, acceptance of banned donations and contributions, intentional omissions of information/incorrect or misleading information)</li> <li>3. Exclusion of the party from funding for up to 5 years or up to 10 years for repeated infringements</li> </ol>

### 3.3. Funding Europarties from abroad

The issue of foreign funding, which was not considered by regulation 2004/2003, has been more tightly regulated by regulation 1524/2007 and, especially, 1141/2014. However, going beyond the legal provisions, to what extent is foreign funding a real issue for European political parties and foundations? This question is addressed by reviewing the donations received by Europarties between 2014 and 2017.<sup>140</sup> Indeed, the ban on foreign donations introduced by regulation 1141/2014 only became applicable from the 2018 budgetary year. It is therefore possible – drawing on the data collected by the platform *Follow the Money* – to map the amount and origin of foreign donations received by Europarties and their associated foundations over the previous period.<sup>141</sup>

Observing the budgetary data provided by the ten Europarties and foundations that were eligible for funding in the 2014-17 period (cf. Figure 1), public funding from the EU budget obviously constituted the lion's share of their financial resources, representing 80-85 % of their income. Contributions – that is, membership fees and transfers from the member parties or individuals – were generally the second source of income, followed by donations. In any case, the cap on contributions from national parties (40 % of the total budget) was a long way from being achieved.

**Figure 1:** The funding of Europarties and their foundations (2014-17)



Source: Dataset 1 (April 23 2019). *Follow the Money*, 2019.

<sup>140</sup> See Bressanelli, E., Di Palma, A. Inglese, Marini, S. and E. Repetto, *Institutions and Foreign Interferences*, Chapter 5. The Author of this report would like to thank Sofia Marini for her work on the empirical data.

<sup>141</sup> See Kuijpers, D. and L. Witteman. *Follow the Money (FTM). Tracking the cashflow of European political parties*, 2019. <https://www.ftm.nl/eu-party-finances>. Budgetary data for the 2014-17 period is provided by the EP on its website in unstandardised format.

**Table 4:** Third party funding to Europarties and their foundations (2014-17)

Europarty (Foundation) <sup>142</sup>	Origin of funding					
	From the EU		From outside the EU		Total	
	Amount (EUR)	%	Amount (EUR)	%	Amount (EUR)	%
EPP (WMCES)	3 204 867	87.4	462 210.3	12.6	3 667 077.3	100
EGP (GEF)	1 608 045	97	49 043	3	1 657 088	100
ACRE (ND)	869 759.5	80.9	204 765.3	19.1	1 074 524.8	100
ALDE (ELF)	591 201.5	74.9	197 980	25.1	789 181.5	100
EAF (EFF)	289 772	80.7	69 385	19.3	359 157	100
ECMP (SALLUX)	297 431	76.7	90 542	23.3	387 973	100
EUD (OEIC)	154 579.7	99.9	2 199	0.1	156 778.7	100
ADDE (IDDE)	136 590	45.3	164 829.5	54.7	301 419.5	100
MENL (FENL)	102 500	100	0	0	102 500	100
EFA (CMC)	68 477.8	100	0	0	68 477.8	100
EDP (IED)	43 090	100	0	0	43 090	100
EL (TE)	19 667	100	0	0	19 667	100
APF (Terra Nostra)	13 296	63.7	7 580	36.3	20 876	100
PES (FEPS)	4 294 027*	99.2*	36 000	0.8*	4 330 027*	100*
<i>Total</i>	<i>7 399 276.5</i>	<i>85.2</i>	<i>1 284 534.1</i>	<i>14.8</i>	<i>8 683 810.6</i>	<i>100</i>

Source: elaboration from Dataset 2 (April 30 2019) [Follow the Money](#). \*Data not included in Dataset 2, FTM (2019).

<sup>142</sup> EPP: European People's Party, WMCES: Wilfried Martens Centre for European Studies; EGP: European Green Party, GEF: Green European Foundation; ACRE: Alliance of Conservatives and Reformists in Europe, ND: New Direction - The Foundation for European Reform; ALDE: Alliance of Liberals and Democrats for Europe Party, ELF: European Liberal Forum; ECMP: European Christian Political Movement, SALLUX: Sallux; EAF: European Alliance for Freedom, EFF: European Foundation for Freedom; EUD: Europeans United for Democracy, OEIC: Organisation for European Interstate Cooperation; ADDE: Alliance for Direct Democracy in Europe, IDDE: Initiative for direct democracy in Europe; MENL: Mouvement pour une Europe des Nations et des Libertés, FENL: Fondation pour une Europe des Nations et des Libertés; EFA: European Free Alliance, CMC: Centre Maurits Coppieters; EDP: European Democratic Party, IED: Institute of European Democrats; EL: Party of the European Left, TE: Transform Europe; APF: Alliance for Peace and Freedom, Terra Nostra: Europa Terra Nostra; PES: Party of European Socialists, FEPS: Foundation for European Progressive Studies.

Donations represented a rather small share of the budget of Europarties and their foundations. They appeared to be more important for the Alliance of Conservative and Reformists in Europe (ACRE) and the European Christian Political Movement (ECPM), while being less relevant in the centre and, especially, on the left of the ideological spectrum.<sup>143</sup>

Table 4 further disaggregates the data on third party funding, showing the extent to which Europarties and their foundations relied on foreign funding. As the table shows, the overall share of 'internal' (EU) contributions and donations was slightly over 85 %. In other words, foreign funding amounted to about 15 % of the party/foundation income not covered by EU public funding. Concretely, it is about EUR 1 300 000, in a four-year period, for all Europarties registered with the Authority. To put this figure into perspective, over the same period the EU allocated more than EUR 153 million from its budget to Europarties.

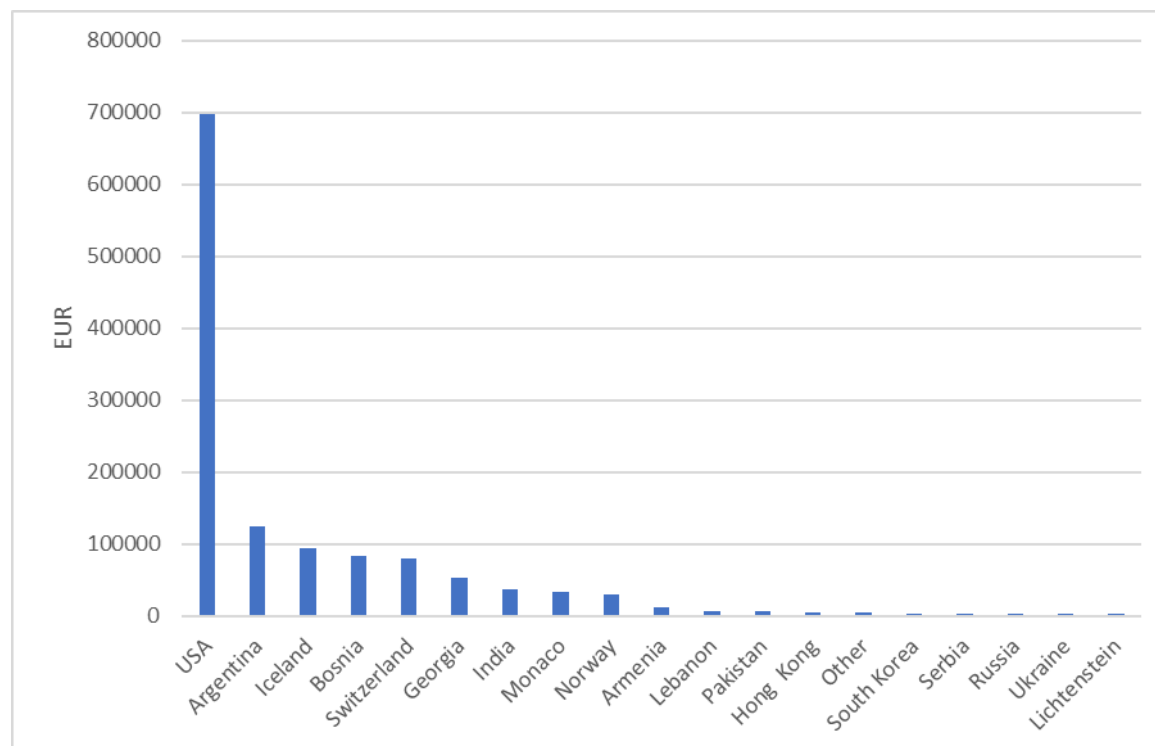
Analysing the FTM dataset on donations, it appears that some Europarties or foundations relied more on foreign funding than others. The share of foreign funding was above the average for the Alliance for Direct Democracy in Europe (ADDE), the Alliance for Peace and Freedom (APF), the Alliance of Liberals and Democrats for Europe Party (ALDE), the European Christian Political Movement (ECPM), the European Alliance for Freedom (AEF) and the Alliance of Conservatives and Reformists in Europe (ACRE), with their associated foundations. It is worth repeating that, over the period here considered, foreign funding was legal and subject to standard reporting requirements. On the other hand, the Party of the European Socialists (PES), the European Green Party (EGP) and the Party of the European Left (EL) did not rely at all, or very little, on donations from non-EU countries.

Finally, it is worth looking more in depth at the origin of foreign funding. As Figure 2 shows, more than half of the overall amount originated in the United States. Donations from the USA benefitted most Europarties and associated foundations.<sup>144</sup> Other countries from which more than EUR 50 000 were transferred are Argentina, Iceland, Bosnia, Switzerland and Georgia. Interestingly, Russia is hard to spot in the graph, with only four donations tracked – each lower than EUR 1000 – directed to the European Greens.

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<sup>143</sup> This is confirmed by empirical research focusing on an earlier period (2008-15). Cf. Katsaitis A. 'Following the Money: Exploring Business Financial Contributions to the European Union's Political Parties'. *Journal of Common Market Studies*. 58:5, 2020, p. 1347.

<sup>144</sup> Cf. Appendix A for additional details.

**Figure 2:** Sources of third country funding (2014-17)

Source: elaboration from Dataset 2 (April 30 2019) [Follow the Money](#).

### 3.4. The role of the Authority

Regulation 1141/2014 established the Authority for European Political Parties and European Political Foundations, for the purpose of registering, controlling and imposing sanctions on Europarties and their associated foundations in accordance with the EU legal framework. The Authority has legal personality and it is independent from any institution or government or from any other body, office or agency. In the performance of its duties, it is represented by its Director, who is appointed for a five-year non-renewable term by the EP, the Council and the Commission by common accord, on the basis of proposals made by a selection committee composed of the Secretaries-General of those institutions, following an open call.

The Authority was formally established on 1 September 2016 and has been fully operational since 2017. The 2014 Regulation, as amended in 2018, entrusted the Authority with a rich and diversified number of tasks. First, the Authority is in charge of keeping the Register of European political parties and foundations, verifying that they fulfil the requirements for registration and maintain their eligible status by complying with registration conditions and requirements. It also holds control and monitoring powers: Reg 1141/2014 states that it is the Authority and no longer the EP, as with the previous regime, that is in charge of reviewing documents concerning the financial year submitted by Europarties and their foundations. Since the 2018 financial year, the Authority has started to review their budgets.<sup>145</sup> Finally, the Authority has pervasive sanctioning powers, ranging from the removal of the party or foundation from the Registry, to financial sanctions and the exclusion of the party or foundation from funding for up to 5 years, or 10 years for repeated infringements. Therefore,

<sup>145</sup> The Authority started reviewing the documentation relating to the 2018 financial year in the summer of 2019. Cf. Authority for European Political Parties and Political Foundations. *Annual Activity Report 2019*. Luxembourg, Publication Office of the European Union, 2020.

the Authority plays a very important role in guaranteeing the transparency of the funding of European political parties and foundations and, more broadly, the functioning of the EU as a system of 'representative democracy' (Art. 10 TEU).

By assessing the applications of Europarties, the Authority acts as a gatekeeper to their access to funding and European legal recognition. To be registered, Europarties have to meet several conditions. They need to be based in a member state of the EU, their member parties must be affiliated to only one Europarty and should have representatives in at least a quarter (seven) of member states, considering the European, national or regional parliaments. Alternatively, member parties should have received at least 3 % of the votes in the most recent EP elections in seven or more member states. Moreover, Europarties should not pursue profit goals and must observe the founding values of the EU, as per art. 2 TEU, in their programme and activities.<sup>146</sup>

Registered parties and foundations should continue to meet the conditions for registration. Information on contributions – not only membership fees, but all payments from members, such as provisions of goods or services below market value – is submitted yearly to the Authority. Donations – i.e. payments from non-members – are subject to specific reporting requirements: Europarties and foundations must immediately report to the Authority any donation exceeding EUR 12000 and, on a weekly basis, all donations received within 6 months prior to the EP elections. Anonymous donations are banned, but the names of the donors (natural persons) are not published if the donation is below or equal to EUR 1500, and only with the prior written consent of the donor if the donation falls in the range of EUR 1500-3000. In such cases, the total amount of 'minor donations' and the number of donors is published in aggregate form.<sup>147</sup>

There are also limits on the expenditures of Europarties and their foundations. Europarties cannot directly or indirectly fund other political parties, especially parties or candidates in member states, or referenda campaigns. In the context of the EP elections, campaigning is possible, but funding of national parties and candidates is not. This creates some legal tensions, as the boundaries between EU and national competences are not always clear-cut. To make the right to campaign effective, the Authority, together with Directorate-General for Finance of the European Parliament, identified a set of practical principles.<sup>148</sup> In 2019, several Europarties also contacted the Authority describing difficulties encountered when setting up political campaigns on social media platforms. These parties explained that the restrictions imposed on them made it excessively difficult, if not impossible, to run truly EU-wide campaigns.<sup>149</sup>

The Authority is also responsible – as per Regulation 2019/493 – for managing the verification procedure that aims to impose sanctions on Europarties or foundations that deliberately influence, or attempt to influence, the outcome of European elections by taking advantage of data protection breaches. The procedure is triggered as a result of an infringement decision adopted by a national data protection authority, and then transmitted to the Authority. So far, there have been no cases.

To guarantee transparency, particularly during EP election campaigns, it is crucial that the Authority acts quickly. Cooperation with similar authorities and institutions in the member states is another key element to ensure that the tasks allocated to the Authority are effectively carried out. It is

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<sup>146</sup> Respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities See Morijn, J. 'Responding to "populist" politics at EU level: Regulation 1141/2014 and beyond', *International Journal of Constitutional Law*, 17:2, 2019.

<sup>147</sup> Cf. Art. 32.1(e) of Regulation 2019/493. Donations are published on the website of the Authority and can be accessed at the following link: <http://www.appf.europa.eu/appf/en/donations-and-contributions.html>

<sup>148</sup> Authority for European Political Parties and Political Foundations, *Annual Activity Report 2019, 2020*, p. 14.

<sup>149</sup> Authority for European Political Parties and Political Foundations, *Annual Activity Report 2019*, p. 15.

therefore not surprising that the Authority has raised the issue of its administrative capacity since beginning its activities in 2017 with just two full-time employees, plus its Director. The Authority's requests for more staff have been taken on board and, by the end of 2019, the number of full-time employees had reached a total of eight, excluding the Director.

Insufficient administrative capacities are likely to negatively affect the Authority and jeopardise its ability to effectively oversee Europarties. The Authority has been criticised for failing to verify that the conditions for the registration of European political parties – in particular respect for the founding values of the EU, as per art. 2 TEU in their programme and activities – continue to be met.<sup>150</sup> More recently, a consultancy firm has filed an official complaint to the European Ombudsman for the alleged failure of the Authority to implement transparency requirements, criticising the lack of clarity of information on, e.g., the amount of private funding received by the Europarties since 2004.<sup>151</sup>

Furthermore, the Authority holds no direct inspective powers: in the performance of its tasks, it relies on the information it is provided with, including the 'National Contact Points', defined by Regulation 673/2018, in art. 2(10), as 'any person or persons specifically designated by the relevant authorities in the Member States for the purpose of exchanging information in the application of this Regulation'. Clear evidence of the scope of the Authority's competences, as well as of its enhanced co-operation with the National Contact Points, is shown in the Commission Delegated Regulation 2015/2401. This regulation entrusts the Authority with the responsibility of certifying, upon request, that the information provided by the party or foundation is correct, up-to-date, and compliant with applicable Union legislation 'after all reasonable checks have been made. Those checks shall include seeking confirmation of information from the relevant Member States' authorities, to the extent that the relevant national legislation provides a basis for the authorities concerned to do so'.<sup>152</sup> In such cases, the Authority is dependent on information from the national authorities, thus reinforcing the inter-dependency between the EU and the national level.

## 4. Conclusions and recommendations

Foreign interferences are a significant threat for democracies. From the United States to Australia, from the EU to Canada, liberal democracies are facing a heterogeneous set of new challenges sponsored by foreign states. Funding political parties in third countries is one of the ways in which countries like Russia have attempted to influence the domestic politics of foreign countries. While this instrument is certainly not new – it suffices to recall the financing of political parties in different countries by the two superpowers during the Cold War years – recent cases of foreign funding of political parties have been reported in several EU member states. The harmful impact on democracy of such interference has compelled policymakers, both at the national and the EU level, to act: in several cases, party regulations have been tightened and transparency requirements strengthened. Furthermore, the reform of party regulations is often part and parcel of a broader set of actions designed to tackle foreign interferences. Notwithstanding the progress made in the last few years, there is still scope for improving the regulatory framework and for stepping up actions to curb foreign party funding. In what follows, five concrete policy recommendations are presented.

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<sup>150</sup> Alemanno, A. and L. Pech. 'Holding European Political Parties Accountable – Testing the Horizontal EU Values Compliance Mechanism'. *Verfassungsblog on Matters Constitutional*, 15.5.2019.

<sup>151</sup> European Democracy Consulting. *EDC Comments Authority for European Parties' reply to Ombudsman inquiry*. 22.10.2020.

<sup>152</sup> Commission Delegated Regulation (EU, Euratom) 2015/2401 of 2 October 2015, art. 2.



1. *Promoting regulatory convergence on foreign party funding among member states.*

The rules on foreign party funding are quite heterogeneous. Despite a move towards banning foreign funding to political parties – as recommended by, among others, the Council of Europe – foreign party funding is possible in some member states, while other members countries have limitations in place, but fall short of banning it altogether. While the regulation of national parties remains a national competence, the Commission could issue recommendations pushing all member states to embrace a ban on foreign party funding. Given the current regulatory framework, it is possible to imagine the paradoxical situation in which foreign funds used to (legally) support a party in a member country are then used to finance Europarties. Also, intermediaries in the member states can be used to channel foreign money, as donations, to the Europarties. While there is an overall cap on contributions, there is no limit for donations (in the aggregate; individual donations cannot exceed EUR 18000).<sup>153</sup> While such cases remain speculative, foreign funding at the national level may boost representation in the EP, favouring parties which – in a covert and non-transparent way – receive instructions from outside the EU and aim to undermine it. There are, therefore, compelling reasons to extend the ban and outlaw foreign funding in all the member countries of the Union.

2. *Europarties should not be financed only by EU (public) money.*

Regulation 1141/2014, as amended by regulation 2018/673, increased the quota of EU funds to 90 % of the overall Europarty budget. The share of EU money (95 %) is even higher for political foundations. Since the first regulation on Europarties was introduced in 2003, the share of public funding has increased from 75 to 90 %. Such reforms addressed a real problem – for some Europarties especially, it proved difficult to raise money – while, at the same time, making it more complicated for private actors to have an undue influence on European parties and associated foundations. The shift towards public funding is fully understandable in a context in which the institutional development of Europarties had to be actively promoted by the EU. However, taking a further step towards a system of complete public funding is not to be recommended. Europarties already suffer from a tenuous link with society and weak recognition by EU citizens. The legal requirements to raise money either from members or through donations ‘forces’ them to keep and nurture relationships with political parties, social actors, economic players and, more generally, civil society. If Europarties are asked to play a role in the EU’s ‘representative democracy’, it is crucial that they do not only look inwardly to Brussels, but they should perform a linkage role between the Union and member states.

3. *The Authority for European political parties and foundations should be strengthened*

Regulation 1141/2014 set up the Authority, which has an important role to play registering and deregistering parties, monitoring party budgets and sanctioning European parties and foundations. Empowering the Authority further would ensure that the control it exercises on Europarties’ budgets is not merely formal. Given the different roles that the Authority is asked to play, it is crucial that it is adequately staffed and resourced.

In addition, the Authority could improve its own transparency and clarity vis-à-vis reporting information on funding. While information on donations to parties is published on its website, it

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<sup>153</sup> Contributions could, in theory, also come from outside the EU, if membership includes non-EU based entities. In November 2020, however, the General Court ruled out this possibility for the Europarties (incidentally, the rules on membership for European political foundations are not as clear). Cf. Adam, M. *How to make political party and campaign financing more transparent: what rules do we need in the EU?* Hearing, INGE Committee, 23.2.2021.



could be more accessible, with data clearly presented in tables and graphs, and in a format readable by computer systems to allow any interested citizen to 'use' it. Incidentally, Europarties themselves should be pushed to publish clear information on their donors on their own websites.

*4. Horizontal and vertical cooperation between institutions should be tightened.*

The Authority on European Political Parties and Foundations, the European Parliament, the European Court of Auditors, the European Anti-Fraud Office (OLAF) and the national authorities all play a role in detecting suspected irregularities. Foreign funding to political parties can be legal or illegal, open or covert and can be channelled through intermediaries, agents, shell companies, associations, small anonymous payments, and other means. In the face of such a broad spectrum of actions, cooperation between national and EU authorities, and between the different EU authorities with competences on the matter, is crucial both to identify suspected foreign payments, and to take appropriate action. In particular, cooperation between the Authority and national contact points should be reinforced and transformed into a more formalised network of institutions scrutinising political parties and their funding.

*5. Foreign funding of political parties is only one instance of foreign interference in democratic processes*

Funding political parties is only one of the tools used by foreign states to interfere in democratic politics. It is often part of a broader set of influence operations carried out to disrupt elections, undermine trust in institutions and polarize the public debate. Policy actions to curb foreign funding of political parties should be embedded in a 'comprehensive approach' to tackling hybrid threats. Legislation on increasing transparency of political advertising is welcome, as well as actions to enhance cybersecurity – including election infrastructure – to counter disinformation, particularly online, and to promote independent fact-checking and quality journalism. In this regard, the timely implementation of the European democracy action plan is a very important milestone.

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## Annex

### Annex: Foreign (extra-EU) donations to Europarties and foundations (2014-17)

Europarty (foundation)	Country	Amount (EUR)	Donations (no)
ACRE (ND)	USA	108 192	16
ACRE (ND)	Iceland	51 400	12
ACRE (ND)	Armenia	6 090	2
ACRE (ND)	Georgia	2 514.5	2
ACRE (ND)	Switzerland	586	1
ACRE (ND)	Israel	500	1
ACRE (ND)	Hong Kong	4 496.76	1
ACRE (ND)	Lichtenstein	18 000	2
ACRE (ND)	Dominican Republic	456.97	1
ACRE (ND)	Argentina	4 625.62	2
ACRE (ND)	Faroe Island	665	1
ACRE (ND)	Guatemala	930.54	1
ACRE (ND)	Tunisia	400	1
ACRE (ND)	Pakistan	5 908	1
ALDE (ELF)	USA	132 380	16
ALDE (ELF)	Switzerland	48 000	4
ALDE (ELF)	Serbia	2 000	1
ALDE (ELF)	India	12 000	1
ALDE (ELF)	South Korea	3 600	1
ECPM (SALLUX)	USA	50 541	11
ECPM (SALLUX)	Georgia	21 796	4
ECPM (SALLUX)	Switzerland	4 395	5

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ECPM (SALLUX)	Albania	1 000	1
ECPM (SALLUX)	Norway	12 810	3
EPP (WMCES)	USA	317 420	28
EPP (WMCES)	Switzerland	13 000	2
EPP (WMCES)	Serbia	124 540	2
EPP (WMCES)	Lebanon	7 250.49	1
EGP (GEF)	Georgia	4 000	1
EGP (GEF)	Switzerland	8 600	4
EGP (GEF)	Norway	29 563	4
EGP (GEF)	Russia	3 440	4
EGP (GEF)	Ukraine	3 440	4
PES (FEPS)	USA	36 000	3
EAF (EFF)	USA	45 385	5
EAF (EFF)	India	24 000	2
ADDE (IDDE)	USA	2 680.49	1
ADDE (IDDE)	Iceland	45 649	4
ADDE (IDDE)	Monaco	34 000	3
ADDE (IDDE)	Bosnia	82 500	2
APF (Terra Nostra)	Switzerland	3 000	2
APF (Terra Nostra)	USA	4 580	2
EUD (OEIC)	Switzerland	2 199	1

Source: elaboration from Dataset 2 (April 30 2019) [Follow the Money](#).

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