

STUDY

Requested by the AFCO committee



# Towards a revision of the Regulation on the statute and funding of European political parties and foundations

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Policy Department for Citizens' Rights and Constitutional Affairs  
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# Towards a revision of the Regulation on the statute and funding of European political parties and foundations

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## **Abstract**

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, provides an in-depth analysis of the key proposed changes to Regulation 1141/2014 on the statute and funding of European political parties and foundations. It assesses the extent to which the reformed regulation strengthens, as per art. 10(4) TEU, the capacity of Europarties to contribute to forming a European political awareness and expressing the will of EU citizens.

This document was requested by the European Parliament's Committee on Constitutional Affairs.

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## LIST OF ABBREVIATIONS

<b>AFCO</b>	European Parliament Committee on Constitutional Affairs
<b>ALDE</b>	Alliance of Liberals and Democrats for Europe
<b>APPF</b>	Authority for European political parties and foundations
<b>CONT</b>	European Parliament Committee on Budgetary Control
<b>DG FINS</b>	Directorate General for Finance, European Parliament
<b>ECPM</b>	European Christian Political Movement
<b>ECRP</b>	European Conservatives and Reformists Party
<b>EDP</b>	European Democratic Party
<b>EFA</b>	European Free Alliance
<b>EGP</b>	European Green Party
<b>EP</b>	European Parliament
<b>EPP</b>	European People's Party
<b>EPRS</b>	European Parliament Research Service
<b>EUCJ</b>	European Union Court of Justice
<b>EUPPs</b>	European political parties
<b>EUPFs</b>	European political foundations
<b>IDP</b>	Identité et Démocratie Parti
<b>NMPs</b>	National Member Parties
<b>PES</b>	Party of European Socialists
<b>PEL</b>	Party of the European Left

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## EXECUTIVE SUMMARY

The role of European political parties (in brief: Europarties) is set out in Article 10(4) TEU and Article 12(2) of the EU Charter of Fundamental rights, stipulating that they “contribute to forming European political awareness and to expressing the will of citizens of the Union”. Europarties and their associated political foundations can significantly contribute to representative democracy in the EU, enhancing the European dimension of public debates and electoral competition in the run-up to the European Parliament (EP) elections.

Europarties were first recognised by the Treaty of Maastricht in 1992 and, in the following thirty years, have gone through a remarkable process of legal consolidation. Regulation 2004/2003 introduced a funding regime providing them with financial resources from the EU budget. Regulation 1524/2007 created political foundations to complement the activity of Europarties. Regulation 1141/2014 gave them EU legal status, created the Authority for European Political Parties and Political Foundations (APPF), and reformed the funding system. The latter regulation was amended further in 2018 – in relation to registration and funding criteria – and in 2019 – regarding protection rules for breaches of personal data.

The current regulation on the statute and funding of Europarties and political foundations included a revision clause (art. 38), according to which the EP was expected to publish a report on the application of the regulation by 31 December 2021. No more than six months after the publication of this report, the European Commission was also expected to present its own assessment on the application of the regulation accompanied, if appropriate, by a new legislative proposal to amend the regulation. In a plenary sitting on 11 November 2021, the EP amended and approved the report prepared by the EP Committee on Constitutional Affairs (AFCO) on the application of the regulation, while the Commission followed suit with its own evaluation report and legislative proposal on 25 November 2021.

The aim of this study is to provide the EP with background information and policy recommendations for the forthcoming AFCO legislative report on the revision of Regulation 1141/2014 on the statute and funding of European political parties and political foundations. It provides an in-depth analysis of the key provisions included in the legislative proposal, comparing them with the recommendations provided by the EP in its report on the application of the regulation. It assesses how the new legislative proposal strengthens, as per art. 10(4) TEU, the capacity of Europarties and their associated foundations to contribute to forming a European political awareness and to expressing the will of EU citizens.

The study is structured in three main chapters. Chapter 1 places the reform of the party regulation in context. It reviews the key milestones in the historical development of Europarties and presents the current regulatory framework. Chapter 2 begins with a puzzle: why is it that – notwithstanding the organisational consolidation described in the previous chapter – the Europarties are still scarcely recognised by EU citizens and enjoy limited visibility? The chapter discusses the nature of Europarties – ‘parties of parties’ with emerging but still rather weak links to civil society and citizens in EU member states – and the key steps leading to the new legislative proposal, with a focus on EU policy-makers.

Chapter 3 is the core of this study. It systematically compares the Commission’s legislative proposal with the EP’s evaluation report, the key issues that emerged from the consultation with stakeholders and the public debate around the reform of the Europarty statute and funding. The chapter focuses

on six themes which were expected to be the targets of reform: membership; relations with national parties; funding; respect for EU values; internal party organisation and gender; administrative issues. It shows that the legislative proposal took several of the EP's recommendations on board, from Council of Europe member country membership to administrative simplification, from an increase of the quota of EU funding to an extension of the value compliance mechanism to the member national parties.

Yet, as the conclusive chapter of this study (Chapter 4) argues, the new proposed regulation addresses targeted issues and closes some loopholes, but it does not radically change the regulatory framework for Europarties and their associated foundations. A few limited changes have been made on issues such as individual membership and internal party democracy, while further provisions on the Europeanisation of national member parties (e.g., including the logo of the Europarty on the ballot paper for the EP elections) or on the role of Europarties in the electoral arena (i.e., selecting candidates in transnational constituencies) should be dealt separately by the European Electoral Act. While most of the introduced changes were demanded by stakeholders in the context of a close dialogue with them, the proposal strengthens Europarties mainly as transnational party alliances, rather than as political actors expressing the will of EU citizens.

In terms of methods, this study relies on a wealth of different sources – documents from EU institutions, policy papers and academic studies – as well as empirical data extracted from the websites of the APPF and the EP, or from other studies conducted by think tanks or academics. In addition, it relies on several non-attributable interviews with key stakeholders – in Europarties, the Parliament and the Authority – who were asked to elaborate their views on the reform of the regulation. Interviews were conducted either in person in Brussels or online, most were recorded but, to guarantee the full anonymity of the interviewees, they are only reported in aggregate form.

## 1. EUROPARTIES: THE STATE OF PLAY<sup>1</sup>

### 1.1. Introduction

Political parties are established actors in the EU political system nowadays. Their role is recognised by the TEU which, in art. 10(4), indicates that they “contribute to forming European political awareness and to expressing the will of citizens of the Union”. Art. 224 of the TFEU further prescribes that the ordinary legislative procedure should be used to regulate them and particularly their funding. The same wording of art. 10(4) is to be found also in art. 12(2) of the EU Charter of Fundamental Rights.

The Treaty of Lisbon replicated art. I-46(4) in Title VI on the ‘Democratic life’ of the Union in the Treaty establishing a Constitution for Europe. Yet, the origins of the so-called ‘party article’ date back to the Treaty of Maastricht (1992) which used a slightly different wording. Art. 138A indicated that political parties at the EU level – in brief, Europarties – contribute expressing the “political” will of citizens of the Union adding that they represent an “important factor for European integration”. While the Treaty of Amsterdam (1997) did not bring any change, the Treaty of Nice (2001) supplemented art. 191 (as the ‘party article’ was then re-numbered) with the new art. 251, which established that the co-decision procedure should be used for the regulation of Europarties.<sup>2</sup>

Thirty years after the Treaty of Maastricht formally recognised Europarties, and almost twenty years after Regulation 2004/2003, which set up the conditions for their registration and funding, a new regulation was proposed by the European Commission in late November 2021. Before presenting the debate leading to the reform of the regulation (Chapter 2) and the in-depth analysis of the specific provisions included in the new legislative proposal (Chapter 3), this chapter provides background information and reviews the key steps in the historical development of Europarties. It then describes how the legislation currently in force regulates Europarties.

### 1.2. Historical development

Transnational party cooperation at the EU level began in the Common Assembly of the Coal and Steel Community, whose political groups brought together members from the six founding members based on their political affinities.<sup>3</sup> When the Assembly was later renamed Parliament, the political groups continued to organise its work and activities and, in parallel with the empowerment of the EP, consolidated their organisational structures.<sup>4</sup> Still today, political parties at the EU level

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<sup>1</sup> I would like to sincerely thank Samuele Bernardi for his excellent work as research assistant. I am grateful to Claire O’Neill for the final language proofreading. This work benefited from conversations with experts like Emilio de Capitani and Daniela Piccio.

<sup>2</sup> The Treaty of Nice also included Declaration 11, which specified that the EU funding of the Europarties could not be used to finance national parties directly or indirectly.

<sup>3</sup> Hix, S., Kreppel, A. and Noury, A., The Party System in the European Parliament: Collusive or Competitive? *Journal of Common Market Studies*, Vol. 41, No. 2, 2003, 309-331.

<sup>4</sup> Kreppel, A., *The European Parliament and Supranational Party System. A Study in Institutional Development*, Cambridge University Press, Cambridge, 2001. See also Bressanelli, E., ‘The Political Groups as Organisations (1979-2020): The Institutionalisation of Transnational Party Politics’, in Ahrens, P., Elomäki, A. and Kantola, J. (eds), *European Parliament’s*

are most visible in their role as parliamentary parties, performing a key role as policy-makers in the EP.

Since the 1970s, however, transnational party cooperation at the EC level started to take shape outside the parliamentary arena. A key trigger was the decision to directly elect Members of the European Parliament (MEPs) – which were selected by national parliaments back then – starting in 1979. This decision created high expectations regarding the democratisation of the integration project and, as David Marquand put it, the government-led “*Europe des patries*” could have been gradually supplanted by a party-based “*Europe des partis*”.<sup>5</sup>

The Christian Democratic, Liberal and Socialist party families – which were all already engaging in international party networks through the activities of their Internationals – set up specific organisations to coordinate the member parties belonging to EC member countries. The European People's Party (Christian-Democrats), the Confederation of Socialist Parties of the European Community and the Federation of Liberal and Democratic Parties in the European Community were all created between 1974 and 1976. It is worth stressing that – with the exception of the EPP – all the other organisations did not call themselves parties, but rather opted for either federation or confederation.

Although the introduction of direct elections was a critical moment in their organisational development, the high expectations that most observers had vis-à-vis the early Europarties were only minimally met. Direct elections did not lead to the creation of a veritable European public sphere and Europarties themselves played a very marginal role. EP elections remained “second order elections” or essentially, national elections producing a European outcome.<sup>6</sup> The elections were held in the absence of a common EU electoral framework and the manifestos issued by Europarties were rarely used for campaigning. Throughout the 1980s, Europarties did not make any great leap forward, and the subsequent EP election rounds confirmed the somewhat disappointing picture.

A key step in their process of institutional consolidation was marked by their formal recognition in art. 138A of the Treaty of Maastricht. They were tasked with important functions normally attributed to political parties in national political systems. Most crucially, they were given an “expressive function”, being asked to act as transmission belts between citizens and EU institutions.<sup>7</sup>

Despite this important ‘constitutional’ recognition, Europarties were not equipped with the resources to carry out what the ‘party article’ prescribed. Its nature was declaratory, and its implementation postponed.<sup>8</sup> Indeed, the federations still relied on the resources made available by

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*Political Groups in Turbulent Times*, Palgrave Macmillan, Basingstoke, 2022 and, in general, Johansson, K. M. and Raunio, T., ‘Political Parties in the European Union’, *Oxford Research Encyclopedia of Politics*, 2019, pp. 1-19.

<sup>5</sup> Marquand, D., *Towards a Europe of the Parties? Political Quarterly*, Vol. 49, No. 4, 1978, pp. 425-445. See also Hix, S. and Lord, C. *Political Parties in the European Union*, Palgrave Macmillan, London, 1997.

<sup>6</sup> Reif, K. and Schmitt, H., ‘Nine Second-Order Elections – A Conceptual Framework for the Analysis of European Election Results’, *European Journal of Political Research*, Vol. 8, No 1, 1980, pp. 3-44. Cfr. Gagatsek, W., *European Political Parties as Campaign Organisations. Towards a Greater Politicisation of the European Parliament Elections*. Wilfried Martens Centre for European Studies, Brussels, 2010.

<sup>7</sup> For Giovanni Sartori, the ‘expressive function’ of political parties is a key element of a democratic political system. See Sartori, G., *Parties and party systems. A Framework for Analysis*, Cambridge University Press, Cambridge, (1976) [2005].

<sup>8</sup> Johansson, K. M., and Raunio, T., ‘Regulating Europarties: Cross-Party Coalitions Capitalizing on Incomplete Contracts’, *Party Politics*, Vol. 11, No 5, 2005, pp. 515-534.

the EP groups, they were physically located in the parliamentary buildings (with the exception of the EPP) and their employees were seconded from the groups. They had therefore very limited organisational autonomy from their parliamentary groups, and no financial autonomy. In any case, following Maastricht, the Europarties changed their official names: the Party of the European Socialists (PES) was established in November 1992, while the European Liberal, Democratic and Reformist Party (ELDR) was founded in December 1993. By relabelling themselves as parties, they joined the EPP, which had chosen to call itself 'party' already in the 1970s (cfr. above). The European Federation of Green Parties was also created in (June) 1993.<sup>9</sup>

The party article led to strong institutional activism – both by the EP and the leaders of the Europarties<sup>10</sup> – to provide them with a statute and a financial regulation. In 1996, the Tsatsos report – named after its rapporteur, the Greek MEP Dimitri Tsatsos (PES) – suggested that the Europarties should be financed by the EU budget, and it called for a revision of the party article in the intergovernmental conference leading to the Treaty of Amsterdam. In the run-up to the Treaty of Nice, another EP report – whose co-rapporteurs were Giorgos Dimitrakopoulos (EPP) and Jo Leinen (PES) – called for a regulation of the Europarties. A decisive push came from a Special Report of the European Court of Auditors, which pointed out that the current situation, in which political groups transferred financial resources to the Europarties, sharing staff and offices with them, was illegal.<sup>11</sup> Facing mounting pressure, the Commission presented an initial legislative proposal on the regulation and funding of Europarties in 2000. However, this proposal was contested by some member states in the Council – e.g., on the rules for donations and democratic credentials for registration – which, given the unanimity requirement, derailed its approval.

With the entry into force of the Treaty of Nice, the Commission came up with a new legislative proposal in February 2003. The change of legal bases, removing the unanimity requirement in the Council, facilitated its approval despite continuing concerns by the Italian, Austrian and Danish governments. Towards the end of 2003, Regulation 2004/2003 – laying down the conditions for the formal recognition of Europarties and establishing a financial framework – was finally in place. The Central and Eastern enlargement of the EU was also an important facilitator for the new regulation, as Europarties played a socialising role in the then candidate countries, significantly expanding their membership as a result.<sup>12</sup>

A few years later, the party regulation was amended by Regulation 1524/2007 introducing European political foundations. They were defined as entities or networks of entities having legal personality in a member state, 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

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<sup>9</sup> The European Green Party was established later, in 2004.

<sup>10</sup> Among them, a key role was played by Wilfried Martens, the then EPP President, who is considered the “founding father” of the party article. See Johansson, K.M. and Raunio, T., ‘Regulating Europarties’, cit., p. 522.

<sup>11</sup> European 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 June 2000.

<sup>12</sup> Delsoldato, G., ‘Eastward Enlargement by the European Union and Transnational Parties’, *International Political Science Review*, Vol. 23, No 3, 2002, pp. 269-289. As the European Commission indicated in the original legislative proposal for regulation 2004/2003, “the accession of new member states is becoming imminent and the European political parties will play a major role in preparing citizens of those countries for European elections and for participating in the Union’s political life”, adding that “provisions should be made for [their] financing [...] as to cover part of their operating costs and the cost of promoting democracy in the countries applying for accession”. European Commission, *Proposal for a Council Regulation on the statute and financing of European political parties. Explanatory memorandum*, COM(2000)898 final – 2001/0011(CNS), 13 February 2001.

legal entities, the former need to be affiliated to a party to apply for funding.<sup>13</sup> The amended regulation introduced another important change, by allowing Europarties to finance campaigns for EU elections. While such resources could not be used to finance national political parties or candidates, Europarties were finally given a more active role in the electoral arena.

A few years later, the regulation was under review again. In April 2011, an EP report known by the name of its rapporteur, the Greek MEP Marietta Giannakou (EPP), indicated that further reforms were needed and, most crucially, that Europarties and their foundations should be given EU legal status. The Commission followed suit with a legislative proposal for a new regulation. While the proposal introduced EU legal status for Europarties, it was not spared from some critical remarks made by the European Court of Auditors.<sup>14</sup>

Regulation 1141/2014, which repealed Regulation 2004/2003, was approved by the co-legislators in 2014 and became applicable from January 2017, while provisions regarding funding became effective from the 2018 financial year. The new regulation aimed to make Europarties both more visible and effective actors and, to that end, it gave them 'European legal personality'. It also created an independent Authority on Political Parties and Foundations (APPF) which was given the responsibility to manage the registry of EUPPs/EUPFs and check their compliance with the rules, in cooperation with the EP (DG FINS).

However, already before the regulation began being applied, calls for its reform multiplied.<sup>15</sup> In April 2016, the three major Europarties asked the Commission to amend it. In July 2016, a report assessing the funding of EUPPs/EUPFs was presented by the EP Secretary General to the Bureau. In January 2017, the Commission was formally invited by the EP, through a parliamentary question asked by Danuta Maria Hübner (EPP), to present a new proposal. In an ensuing resolution, the EP expressed its regret about "the numerous shortcomings" of the regulation, "especially in respect of the level of co-financing (own resources), and of the possibility of multi-party membership of Members of the European Parliament".<sup>16</sup>

As part of the democracy package issued by the Commission ahead of the 2019 EP elections, Regulation 2018/673 amended Regulation 1141/2014 on some specific but important issues. It brought changes to the funding rules, expanding the share of EU funds for EUPPs/EUPFs and rewarding those Europarties with stronger EP representation. It also tightened the rules on representation, forbidding individuals (i.e., MEPs) from sponsoring the registration of Europarties. The evaluation clause (art. 38) was also changed, moving the deadline for assessing the application of the regulation from mid-2018 to the end of 2021.

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<sup>13</sup> European political foundations have, incidentally, received considerably less scholarly attention than Europarties. For an exception, see Chapter 3 in Bardi, L., Bressanelli, E., Calossi, E., Cicchi, L., Gagatsek, W., and Pizzimenti, E., *Political Parties and Political Foundations at European Level: Challenges and Opportunities*. Study, European Parliament, Brussels, PE 509.983, 2014.

<sup>14</sup> The Court noted in its Opinion that there were "significant gaps in the proposed legal framework", in particular on the rules regarding donations, contributions and loans. See European Court of Auditors (2013). *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*, 7 March 2013.

<sup>15</sup> For an overview of key events leading to the amendment of Regulation 1141/2014 see Grosek, K., *European political parties and political foundations – Statute and funding*, Briefing – EU legislation in progress, European Parliament Research Service, Brussels, PE 620.198, September 2018.

<sup>16</sup> European Parliament, *Resolution on the funding of political parties and political foundations at European level*, 2017/2733(RSP), 15 June 2017.



Finally, in the shadow of the Cambridge Analytica Scandal,<sup>17</sup> Regulation 2019/493 amended Regulation 1141/2014 further, introducing sanctions, imposed by the APPF, for infringement of data protection rules. As this regulation is currently in force, it is worth reviewing its key provisions in some detail.

### 1.3. Regulation 1141/2014: key elements<sup>18</sup>

Regulation 1141/2014 defines a 'European political party' – i.e., Europarty – as a “political alliance which pursues political objectives and is registered with the Authority for European political parties and foundations” (art. 2(3)). Registration with the APPF – which was itself created *de novo* by the regulation – is therefore a necessary requirement to be recognised as an EU-level party and, consequently, be eligible for funding.

Some of the criteria to be registered (art. 3) are uncontroversial: Europarties must have their headquarters in a member state of the EU, they should not pursue profit goals and should participate in EP elections, or at least aiming to do so in the future. Furthermore, the 2018 amendment of the regulation established that cross-party membership by the member parties could no longer be accepted. Europarties – and *not* the national member parties under the current rules – should respect the principles set out in art. 2 TEU, such as respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights (cfr. Section 3.4 below).

The quantitative criteria for registration are more controversial – particularly for smaller Europarties, or for organisations aiming to be recognised as Europarties. A Europarty should be represented in at least a quarter of member states by elected members of a parliament or obtain at least 3% of the votes in the EP elections in a quarter of member states. Such criteria were designed to reduce the fragmentation of the party system and ensure a certain degree of transnational activity (in the EU-28, the representative/electoral threshold was set at 7 member states). Registration is, however, a necessary but not sufficient step to access funding. Besides, the regulation prescribes that a Europarty should be represented in the EP by at least one member, who can only sponsor one Europarty (art. 17).

The bulk of the financial resources for Europarties (since 2004) and their associated foundations (since 2008) come from the EU budget (cfr. Section 3.3.1). The regulation – as amended in 2018 – prescribes that financial contributions or grants from the general budget of the EU shall not exceed 90% of the annual reimbursable expenditure for European political parties and 95% of the eligible costs incurred by a European political foundation. In other words, Europarties and their foundations have to raise at least 10% or 5% of their income, respectively, from other sources.

EU funding is distributed among registered Europarties represented in the EP through a two-tier system: 10% of the total amount is distributed in equal shares (the so-called 'lump sum'), while 90% is distributed in proportion to the number of MEPs in each Europarty (art. 19). Here again, such criteria have attracted some criticism for being too generous with those Europarties with a larger representation in the EP, thus favouring the consolidated transnational alliances. On the other hand,

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<sup>17</sup> Cambridge Analytica was a British consulting firm which collected the personal data of millions of Facebook users without their prior consent to use for political advertising.

<sup>18</sup> For a more detailed analysis, see Anglmayer, I., *Statute and Funding of European political parties under Regulation 1141/2014. Ex post evaluation*, Study, European Parliamentary Research Service, Brussels, PE 662.646, June 2021, pp. 6-19.

in its original legislative proposal the Commission favoured reducing the lump sum to 5% (cfr. Section 3.3.2).

Given that public (i.e., EU) funding is the principal, but cannot be the exclusive revenue for the Europarties, they reach their co-funding level with donations and contributions (cfr. Section 3.3.3). While donations are payments (in whatever form) originating from third parties, contributions are payments made by members. There are several limits imposed by the regulation on donations and contributions (art. 20). Starting with the former, they cannot exceed EUR 18,000 per financial year and per donor. Donors' identities are disclosed when the donation exceeds EUR 3,000, while an immediate notification to the APPF should be made for donations exceeding EUR 12,000. Additional reporting obligations kick in in the run-up to the EP elections. There is no ceiling to the overall amount of donations that a Europarty or foundation can receive.

By contrast, contributions from member parties are not subject to any limit, but all together they cannot exceed 40% of the annual income of Europarties and foundations. Tighter norms are in place for individual members, who are subject to the same upper limit in place for donations (EUR 18.000 per year and per member) albeit without an obligation to disclose identity. Elected members (e.g., MEPs) are, instead, not subject to any constraint (on individual membership, see further Section 3.1).

Limitations to spending (art. 22) are significant and limit the range of political activity of the Europarties and their associated foundations. As in Regulation 2004/2003, direct or indirect funding of national political parties is forbidden. Since Regulation 1524/2007, Europarties are allowed to fund EP election campaigns but, as the above limitations remain valid, this generates problems in the operational conduct of the campaigns. Financing referendum campaigns – notwithstanding their EU content, as in referendums on membership or withdrawal – is also forbidden (cfr. Section 3.2).

Controls on the application of the regulation are exercised in cooperation by the APPF, the EP (particularly DG FINS) and the member state where the Europarty/foundation is located (art. 24; cfr. Section 3.6). There are a range of available sanctions for infringements of the regulation (art. 27): the APPF could even de-register parties – for instance, for breaching the obligation to respect the EU's fundamental values – and it could impose financial sanctions, while the EP could exclude parties or foundations from future funding for up to 10 years.

Regulation 1141/2014 embraces a rather liberal approach to internal party organisation (or 'governance', as in art. 4 of the regulation).<sup>19</sup> It only indicates that the statute of a Europarty shall comply with the law of the member states where it is based and that it shall include some basic provisions (e.g., name and logo, address, a political programme setting out its purpose and objectives, names of affiliated foundations, its administrative and financial procedures).

The regulation further indicates that provisions on internal party organisation should include the modalities for admission, resignation and exclusion of its members; rights and duties associated with all types of membership; the powers, responsibilities and composition of governing bodies and internal-decision making processes such as voting procedures and quorum requirements. Norms of a more prescriptive nature on gender-balance or on internal party democracy are not part of the current regulation (cfr. Section 3.5).

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<sup>19</sup> Wolfs, W. and Smulders, J., 'Party finance at the level of the European Union – Party finance reform to vitalize the EU's protoparty system?,' in Mendilow, J. and Phélippeau, E., *Handbook of Political Party Funding*, Edward Helgar Publishing, Cheltenham – Northampton, 2018, pp. 182-202.



The tighter rules on registration have led to a reduction in the number of Europarties and political foundations. Currently, there are 10 of them registered with the Authority (see Table 1, which also lists the corresponding political groups in the EP), while 16 Europarties were registered in 2017.

Table 1. Europarties, political foundations and political groups (2021)

<b>Europarty</b>	<b>Political foundation</b>	<b>EP political groups</b>
European People's Party (EPP)	Wilfried Martens Centre for European Studies	Group of the European People's Party (Christian Democrats)
Party of European Socialists (PES)	Foundation for European Progressive Studies (FEPS)	Group of the Progressive Alliance of Socialists and Democrats in the European Parliament (S&D)
Alliance for Liberals and Democrats for Europe Party (ALDE)	European Liberal Forum (ELF)	Renew Europe Group
European Democratic Party (EDP)	Institute of European Democrats (IED)	Renew Europe Group
European Free Alliance (EFA)	Coppieters Foundation	Group of the Greens/European Free Alliance
European Green Party (EGP)	Green European Foundation (GEF)	Group of the Greens/European Free Alliance
Identité et Démocratie Party (IDP)	Identité et Démocratie Fondation	Identity and Democracy Group
European Christian Political Movement (ECPM)	Sallux – ECPM Foundation	European Conservatives and Reformists group (ECR)
European Conservatives and Reformists Party (ECRP)	New Direction – The Foundation for European Reform	European Conservatives and Reformists group (ECR)
Party of the European Left (PEL)	Transform Europe	The Left group in the European Parliament – GUE/NGL

## 2. TOWARDS THE REFORM OF REGULATION 1141/2014

### 2.1 Introduction

As the previous chapter has shown, Europarties are asked to play an expressive function and should be able to connect EU citizens and decision-making processes. In the Treaty of Lisbon, while art. 10(4) spells out the functions of Europarties, art. 17(7) indicates that the President of the European Commission is proposed by the European Council to the EP “taking into account the elections to the EP”. This article paved the way for a more assertive role for Europarties in the selection of the President of the European Commission, in what became known as the *Spitzenkandidaten* (lead-candidates) system. In 2014, most Europarties have proposed their own *Spitzenkandidat*. Jean-Claude Juncker, the lead candidate selected by the EPP, won a relative majority of votes in the EP elections, eventually becoming the Commission President.

Starting in the 1970s as a loose confederation of national parties that aimed to liaise ahead of each round of EP elections, Europarties have come a long way. Indeed, looking back at their uncertain early days, it can safely be claimed that “their development, especially in relation to the affiliated EP political groups and alongside European political foundations, has been impressive, both legally and politically”.<sup>20</sup> They are now fully recognised by the Treaties, generously funded by the EU, are able to campaign in the EP elections and play a role in the selection of the President of the European Commission. And yet, despite their organisational consolidation and the many rounds of revision of their regulation – which, in less than two decades, was amended or revised five times, with a sixth revision round imminent – Europarties remain poorly visible actors in the EU political system.

This chapter starts by discussing the low public recognition of the Europarties and their associated foundations, based on the available empirical evidence. Given their nature as ‘parties of parties’, with a very limited connection to civil society and citizens, it argues that they are still ill-equipped to contribute to “expressing the will of citizens of the Union”, as per art. 10(4) TEU. Yet, they can better perform other functions, such as helping shape a truly European political space and promoting democratic values within and beyond the EU’s borders, as the Commission Report accompanying the new legislative proposal meaningfully indicates.<sup>21</sup> The final section of this chapter reviews the most recent steps and debates on the reform of the Europarty regulation.

### 2.2 Europarties: their public recognition and visibility

Notwithstanding the impressive pace of reform since Regulation 2004/2003 came into being, Europarties are still largely unknown to EU citizens. In 2014, an AECR/AMR post-election poll (fieldwork: 24-26 May) – based on 12,132 adults across 15 countries – indicated that only 8.2% of EU nationals could name Jean-Claude Juncker, back then the presidential candidate of the EPP. Fewer than 3 out of 10 respondents knew the names of the largest Europarties: more specifically, 27.2% knew the PES, 26.1% the EGP and 24.4% the EPP. The level of awareness of Europarties was

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<sup>20</sup> van Hecke S. et al, *Reconnecting European Political Parties with European Union Citizens*, International IDEA Discussion Paper 6/2018, 2018, p. 12.

<sup>21</sup> European Commission, *Report from the Commission to the European Parliament and the Council. Evaluation report pursuant to Article 38 of Regulation 1141/2014 on the statute and funding of European political parties and European political foundations* COM/2021/717final, 25 November 2021, p. 4.

particularly low in countries such as the Netherlands, Denmark, Finland and the UK, while it was relatively high in Spain.<sup>22</sup>

More recent data broadly confirms the above picture. In its Report on the Public Consultation for the European Democracy Action Plan (15 July – 18 September 2020), a very large majority (91%) of respondents – which, it can be assumed, are more informed about EU politics than the average EU citizen – thinks that there is scope for better explaining the role of European political parties in the EU. Furthermore, 84% of respondents supports more transparency on the financing of Europarties and 77% supports measures to better highlight the links between the national and EU political parties. A lower, but still clear majority supports strengthening the European campaigns of European political parties in member states, which are evidently seen as rather ineffective.<sup>23</sup>

Indeed, the Eurobarometer survey conducted one year before the 2019 EP elections, although not asking specific questions about the Europarties, indicated a rather constrained support of the EU citizens for the *Spitzenkandidaten*. While almost an absolute majority of respondents (49%) indicated that the lead candidate system would increase their likelihood of voting in the EP elections, the figure for the same question, which had previously been asked ahead of the 2014 EP elections, stood at 55%. Also, most respondents (70%) stressed that this institutional innovation only makes sense if accompanied by a broad debate on European issues and the future of the EU.<sup>24</sup>

Overall, the sober evaluation on the recognition and visibility of Europarties is shared by the academic literature. For instance, it has been claimed that “Europarties are still unknown to most European voters. Few will have heard their names, or would recognize their symbols”<sup>25</sup> while others have argued that, notwithstanding the institutionalisation of EU-level parties, there is still no EU party system outside the EP - i.e., a system where parties compete for the votes of EU citizens – and, therefore, their work and activities remain below the radar of ordinary citizens.

### 2.3 The nature of Europarties

To put the above figures in perspective, it is important not to be misguided by the comparison with national parties.<sup>26</sup> The development of Europarties was not triggered by societal pressures, but was rather the product of decisions taken by the EU leaders to address issues of transnational party coordination ahead of the EP elections and tackle the EU ‘democratic deficit’ as the Treaty of Maastricht transformed the EC in a more political Union.

For the sake of analytical clarity, the organisational development of Europarties could be conveniently seen as occurring in three stages.<sup>27</sup> The first stage – ‘contact’ – is characterised by infrequent transnational interaction between the member parties. In the second stage – ‘cooperation’ – permanent transnational interaction leads to the consolidation of *ad hoc*

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<sup>22</sup> AECR/AMR, *Post EU election polling project*, AMR GmbH Dusseldorf, 25-26 May 2014.

<sup>23</sup> European Commission, *Report from the Commission to the European Parliament and the Council*, cit., pp. 11-12.

<sup>24</sup> Schulmeister, P., Defourny, E., Maggio, L., Hallaouy, S., Chiesa, A., Jalakas, K., *Democracy on the move. European elections – one year to go*, Eurobarometer Survey 89.2, European Parliament, Brussels, PE 621.866, May 2018, pp. 29-32.

<sup>25</sup> Hertner, I., ‘Europarties and their grassroots members: an opportunity to reach out and mobilise’ in van Hecke, S. et al., *Reconnecting European Political Parties with European Union Citizens*, International IDEA Discussion Paper 6/2018, p. 33.

<sup>26</sup> Seiler, D.L., *Les partis politiques en Occident. Sociologie historique du phénomène partisan*, Ellipses, Paris, 2003.

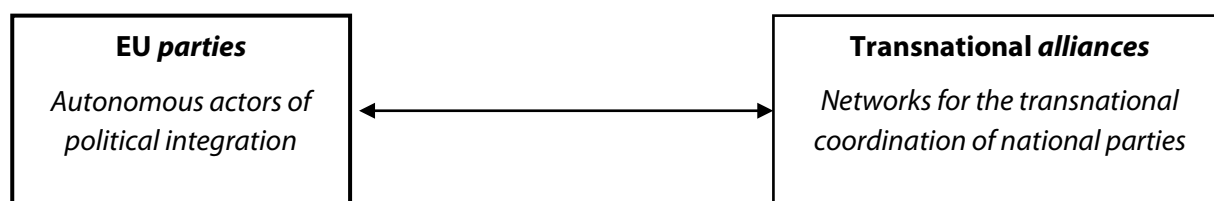
<sup>27</sup> See Niedermeyer, O., *Europäische Parteien: Zur Grenzüberschreitenden Inter-aktion politischer Parteien im Rahmen des EG* [European parties: on the cross-border interaction of political parties in the framework of the European Community], Campus Verlag, Frankfurt, 1983.

organisations. In the third and final stage – 'integration' – party 'sovereignty' (that is the capacity to decide on strategies, political appointments, resource allocation etc.) moves from national parties to the EU-level organisations.

On balance, the literature places Europarties at the second, or between the second and the third stage of institutional development.<sup>28</sup> While the early (con)federations represented the first stage of development, the current Europarties still depend on their national member parties for several key aspects, from the selection of candidates for the EP parliamentary elections to the transfer of financial resources (contributions) for their co-funding. Indeed, the academic literature has often labelled Europarties as 'transnational alliances', 'party federations', 'party networks' or 'umbrella organisations', while several stakeholders still perceive Europarties as more akin to international NGOs than veritable political parties.<sup>29</sup>

More simply, it can be argued that the existing Europarties are placed in-between the poles displayed below in Figure 1. On the one extreme, EU-level party organisations are understood, in a minimalist fashion, as broad networks or alliances between national parties. They offer a platform through which the latter can coordinate transnationally and, for instance, seek to take common positions on EU policy developments. On the other extreme, in a maximalist manner, Europarties can be thought of as autonomous actors of political integration, endowed with the capacity to act independently from national member parties in electoral campaigning (on EU matters at least) and with a grass-root membership of individual persons. Currently registered Europarties can be placed at various points of this continuum, with the oldest and most established Europarties closer to the 'party' pole.

Figure 1. The uncertain nature of Europarties



The reform of their regulation could provide Europarties with the tools to be more visible at the level of member states (e.g., allowing them to campaign in referendums on EU issues and clarifying their role in EP elections) and strengthen their connection with EU citizens (e.g., providing incentives for individual membership and giving members a role in internal decision-making). At the same time, however, the reform of Regulation 1141/2014 should be seen in a broader context. First, the current legal framework gives Europarties the freedom to decide on their internal organisation. For instance, they are free to decide on their membership categories, including individual membership. Second, Europarties are not intended to replace national parties, but to work closely with them to ensure

<sup>28</sup> Delwit, P., Kulahci E. and Van de Walle C., *The Europarties: Organisation and Influence*, Editions de l'Université de Bruxelles, Brussels, 2004. On the early Europarty organisations, see Bardi, L., 'Transnational Party Federations, European Parliamentary Party Groups and the Building of Europarties', in Katz, R. S. and Mair, P. (eds), *How Parties Organize. Change and Adaptation in Party Organizations in Western Democracies*, SAGE Publications Ltd., London, 1994, pp. 357-372.

<sup>29</sup> See Delwit et al., *The Europarties*, cit.; Hanley, D., *Beyond the Nation State: Parties in the Era of European Integration*, Palgrave Macmillan, Basingstoke, 2008; interviews, November 2021.

“the better representation of European citizens and a strengthened European democracy”.<sup>30</sup> While the reformed regulation can provide material incentives to tighten the multi-level cooperation between parties, this remains ultimately a political choice.

## 2.4 The path towards reforming Regulation 1141/2014

### 2.4.1 The European Parliament

The reform of Regulation 1141/2014 was effectively provided for by its art. 38 – the so-called ‘revision clause’ – which required the EP to submit a report on the application of the regulation by the end of 2021, after consulting the APPF.<sup>31</sup> In turn, the Commission was expected to draft its own report on the application of the regulation, which could be accompanied by a new proposal to amend the regulation, within six months of the EP non-legislative report.

Following the 2019 EP elections, the Parliament started to discuss the reform of the regulation. In its resolution of 6 November 2020 on stocktaking of European elections,<sup>32</sup> the EP proposed amending the regulation in order to allow the Europarties and their associated foundations to “fully participate in the European political space, to campaign, to be able to use campaign funds and stand in European elections, to increase the transparency of their funding, especially as regards the management of funds from the EU budget and when funding comes from member parties” (art. 31). In particular, it lamented that Europarties neither fully participate in European election campaigns, due to restrictive measures both at the EU and national level, nor are they allowed to campaign in national referendums on EU issues, like the UK referendum on EU membership. It also called for the Europarty names and logos to be placed on the ballot papers for the EP elections – a change affecting the electoral law of the EU – and regretted the scant relevance of Europarty manifestos in the political debate ahead of the 2019 elections.

The procedure to assess the application of Regulation 1141/2014 officially began on 28 January 2021, when the AFCO committee requested authorisation to draft its own-initiative report and appointed the two rapporteurs, Rainer Wieland (EPP) and Charles Goerens (Renew Europe). AFCO organised two hearings on 23 February (together with the INGE special committee) and on 25 May 2021. On 15 June 2021, it further discussed the reform of the regulation with representatives of Europarties. In the meanwhile, it also received the opinion of the CONT committee, whose rapporteur was Isabel Garcia Munoz (S&D).

Overall, the current regulation was generally considered rather positively and, when the draft report was discussed at committee level, a broad consensus emerged on the need to make targeted amendments to the current regulatory framework.<sup>33</sup> The analysis of the votes on the 156 presented amendments and compromise amendments casts some light on the most contentious issues, which are worth presenting in some detail. Only those votes for which the margin between the winning

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<sup>30</sup> OSCE Office for Democratic Institutions and Human Rights (2021), *Submission to the European Commission and to the European Parliament. Preliminary Comments on Reforming Regulation 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations*, p. 6.

<sup>31</sup> The consultation effectively took place on 15 June 2021.

<sup>32</sup> European Parliament, *Report on stocktaking of European elections, 2020/2088(INI)*, 6 November 2020.

<sup>33</sup> Cfr. AFCO Committee, meeting, 2 September 2021 and interviews, November 2021, where stakeholders unsurprisingly expressed very similar positions. The draft report was presented to AFCO on 22 June 2021.

option (say: approving) and the other two options (say: rejecting and abstaining) is between one and two votes are selected here.

Among the rejected amendments, two amendments – no. 31 tabled by François Alfonsi (Greens/EFA) and no. 93 tabled by Gabriele Bischoff, Giuliano Pisapia and Domènec Ruiz Devesa (S&D) – introduced, with slightly different wording, individual membership open to all EU citizens. Amendment no. 118 (Alfonsi) targeted individual donors and stressed their obligation to cooperate with the APPF. Finally, amendment no. 142 (Bischoff et al.) tightened the requirements on gender balance and the respect for the EU values. Among the approved amendments, instead, the narrow margin of the approval of compromise amendment 14a – with 14 MEPs voting in favour, 11 against and 2 abstaining – showed that asking the Commission to consider a vote-based funding scheme to replace the seat-based funding scheme currently in place was far from being unanimously supported by AFCO members.<sup>34</sup>

The draft report was endorsed by a nearly unanimous vote in the committee, with only two members of the ECR voting against, and three members of the ID group abstaining, and it was adopted on 18-19 October 2021. It then moved to the plenary sitting where it was debated and voted on 11 November 2021.

Eight amendments were tabled and put to a vote. Amendments no. 1 and 2, introduced by François Alfonsi (Greens/EFA), which aimed to respectively introduce a ban on donations from legal persons and limitations on membership in the committee of eminent persons (which plays an important role in the value compliance procedure), were rejected. The winning coalition included the EPP, the S&D, Renew and some ECR and ID members, while the Greens/EFA and The Left were on the losing side, together with some dissidents from the EPP and S&D ranks. The other amendments were not by roll-call, but they still provide some interesting insights on the different positions inside the EP. Amendments no. 6 and 7 were tabled by one of the rapporteurs, Rainer Wieland (EPP), and concentrated on the vote-based distribution system and its merits. Both amendments were rejected, and the article asking the Commission to take into consideration the vote-based distribution system – which had ultimately made its way into the AFCO report – was eventually deleted. Amendment no. 8 was also tabled by Wieland on behalf of the EPP and asked to delete the paragraph on the need to ensure the compatibility of the financing rules for Europarties with a pan-European constituency campaign at the EP elections. The (recorded) vote was tight, but the amendment was rejected by a majority of fifteen members.

The final report - 2021/2018(INI) - was supported by a broad majority: 428 MEPs voted in favour, 92 against and 49 abstained. Looking at the roll-call votes, the EPP, S&D, Renew, the Greens/EFA and The Left voted in favour, while most ECR and ID members either opposed it or abstained. 7 members of the EPP, 1 member of the S&D and of the Green/EFA and about one-third of the members of The Left voted differently from the majority of their group.

The approval of the report – whose key recommendations will be analysed in Chapter 3 – was welcomed by one of the co-rapporteurs, Charles Goerens, “as a timely one, just as European citizens engage in the largest democratic reflection this continent has ever known, the Conference on the Future of Europe. It will be up to these European political parties, which our report seeks to

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<sup>34</sup> European Commission, *Commission Staff Working Document. Impact Assessment Report Accompanying the document 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 (recast)*, SWD(2021) 359 final, 25 November 2021, pp. 61-73 (Annex II).



strengthen, to make real the democratic aspirations that our citizens will express during the Conference".<sup>35</sup>

It should be stressed that the separate legislative own initiative report on the reform of the European Electoral Law, whose rapporteur is Domènec Ruiz Devesa (S&D), is also of high relevance for Europarties. The report may introduce a transnational constituency, with lists headed by the Europarty *Spitzenkandidaten*. Yet, its approval has been postponed to 2022, due to disagreements among the political groups and the ongoing activities of the Conference on the Future of Europe.<sup>36</sup>

Other indications – particularly on funding from outside the EU – come from the final report of the INGE Committee on foreign interference in all democratic processes in the European Union, including disinformation, voted on 25 January 2022. INGE welcomed the revision of Regulation 1141/2014 but, particularly in view of the 2024 EP elections, it recommended that the Commission include “a ban on all donations from outside the EU that cannot be documented either through contract, service agreements or fees associated to European political party affiliation while allowing membership fees from national member parties outside of the EU and EEA to European political parties”.<sup>37</sup>

#### 2.4.2 The European Commission and the Council of the EU

The reform of Regulation 1141/2014 was mentioned in the Political Guidelines of the newly elected President of the European Commission Ursula von der Leyen in July 2019. In the chapter on ‘a new push for European democracy’, von der Leyen stressed the need to strengthen the European dimension of the EP elections and increase the link between EU citizens and institutions. As part of the European Democracy Action Plan, presented by the Commission on 3 December 2020, the reform of the regulation of European political parties and political foundations was planned for the third quarter of 2021. Indeed, when the Commission presented its Work Programme for 2021, the new regulation was listed as a priority.

While the Commission stressed that it would not present its proposal before the assessment report of the EP had been voted, it started to work on its impact assessment in parallel with the AFCO committee. Thus, between 17 March and 14 April 2021 the roadmap/inception impact assessment on the regulation was published for comments. From 30 March to 22 June 2021, the public consultation on the regulation was also open for feedback. The Commission received 21 responses from 14 member states, including seven EU citizens, seven NGOs, one representative of a national

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<sup>35</sup> The quote is taken from AFCO Committee, *Transparency, EU values and pluralism, new rules for European political parties*, Press release, 11 November 2021.

<sup>36</sup> European Parliament, *Proposal for a Council Regulation on the election of the members of the European Parliament by direct universal suffrage, repealing Council decision (76/787/ECSC, EEC, Euratom) and the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to that decision, 2020/2220(INL)*. For an analysis of the debate on the reform of EU electoral rule – including the introduction of transnational constituencies – see Costa, O., Can the Conference on the Future of Europe unlock the EU elections reform? Reflections on transnational lists and the lead-candidate system. *European Law Journal*, Vol. 26, No 5-6, 2021, pp. 460-71.

<sup>37</sup> Cfr. compromise amendment 79 (EPP, Renew, Greens) to the INGE Special Committee Draft Report on *foreign interference in all democratic processes in the European Union, including disinformation*, 2020/2268(INI), 18 October 2021 (rapporteur: Sandra Kalniete). [https://www.europarl.europa.eu/meetdocs/2014\\_2019/plmrep/COMMITTEES/INGE/DV/2022/01-25/INGEcompromiseamendments\\_clean\\_210122\\_EN.pdf](https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/INGE/DV/2022/01-25/INGEcompromiseamendments_clean_210122_EN.pdf)

authority, one representative of a research organisation, one company, three other organisations and one member state.

On the bases of consultations with stakeholders and given that the parliamentary report had been adopted by the EP plenary, the Commission published the legislative proposal for the new (recast) regulation and the impact assessment on 25 November 2021. The latter identified a number of shortcomings of the current legal framework in three areas. First, funding criteria were deemed to be the most “pertinent” to the regulation’s “underperformance”.<sup>38</sup> Second, there were issues with respect for EU values, democracy and transparency. Finally, enforcement could be improved, and the administrative burden relaxed.<sup>39</sup> However, the evaluation report on the regulation made clear that the overall assessment of the application of the regulation was “positive” and there was “no call for major overhaul of the current system”.<sup>40</sup>

The new regulation and the related impact assessment and evaluation report were published together with other legislation, as part of a package of measures to reinforce democracy and protect the integrity of elections, including a communication, a legislative proposal on transparency and targeting of political advertising, two legislative proposals on the right of EU citizens residing in a different member state from their state of origin (“mobile EU citizens”) to vote and stand as candidates in elections to the EP and municipal elections.

The new rules on transparency and targeting of political advertising – which addressed the issue that about 40 percent of EU citizens have been exposed to content that they could not easily determine whether it was political advertising<sup>41</sup> – have important implications for Europarties.<sup>42</sup> They prescribe that any political advert needs to be labelled as such and to include information on who pays for it and how much. The use of personal data, without the explicit consent of the individual concerned, is banned. Organisations – such as those employed by Europarties, and the Europarties themselves – making use of political targeting will need to adopt an internal policy on the use of such techniques. Financial sanctions for transgressors have also been introduced.<sup>43</sup>

The Commission aims to see all measures included in the package approved by spring 2023, so that they are in place one year before the next EP elections. Such an objective is shared by the EP, with the AFCO committee scrutinising the proposal in early 2022. On the Council side, the French Presidency has indicated in its Programme that “strengthening European democracy will also entail improving the legislative framework in preparation of the next European elections. [It] will contribute to advancing work to revise the regulation on the statute and funding of political parties, regulate online political advertising and amend the Electoral Act”.<sup>44</sup>

On January 25, the General Affairs Council had an initial discussion on the party regulation and the other legislative proposals presented by the Commission as part of a package. Member states expressed their concern over the norm allowing foreign funding from CoE member countries (see Section 3.1.2 below). Reservations were expressed by several countries, such as Cyprus, Germany,

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<sup>38</sup> European Commission, *Commission Staff Working Document. Impact Assessment Report*, cit., p. 13.

<sup>39</sup> *Ibidem*, p. 20.

<sup>40</sup> European Commission, *Report from the Commission to the European Parliament and the Council*, cit., p. 3.

<sup>41</sup> European Commission, *Democracy in the EU. Report*, Special Eurobarometer 507, March 2021.

<sup>42</sup> The legislative proposal has been presented before the IMCO Committee on 10 January 2022.

<sup>43</sup> See the new Art. 5 of European Commission, *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 (recast)*, 2021/0375(COD), 25 November 2021.

<sup>44</sup> French Presidency of the Council of the EU, *Programme*, 2022, p. 8.



Italy, Lithuania, Luxembourg, Portugal, while Belgium, the Czech Republic, Ireland, Latvia and the Netherlands expressed concern if not outright opposition. Greece stated that allowing funding from CoE countries like “Russia, Turkey and Azerbaijan” would be “a big mistake”. The French Presidency, noting that members had “questions” and some expressed “frank reticence”, suggested either maintaining the current ban on third country funding or devising a stricter framework.<sup>45</sup>

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<sup>45</sup> All quotes in this paragraph are taken from Agence Europe, 3. *DEMOCRACY: European Political Parties funding, many member states express concern about foreign interference*, Europe Daily Bulletin No. 12876, 26 January 2022.

## 3. IN-DEPTH ANALYSIS: THE COMMISSION PROPOSAL

This chapter presents an in-depth analysis of the legislative proposal of the European Commission for a recast regulation on European political parties and political foundations. It is structured in six sections, focusing respectively on membership, relations with the national parties, funding, respect for EU values, internal organisation and administration.

The chapter compares the legislative proposal with the evaluation report adopted by the EP plenary in November 2021 and with the current regulatory framework. It focuses on the key reforms introduced by the Commission, in light of the issues identified by the EP and key stakeholders. It assesses the current proposal also in light of the objectives that the TEU assigns to the Europarties (art. 10(4) TEU).

### 3.1 Membership

#### 3.1.1 *Individual membership*

Given the current regulation, individual membership is legally possible, and it is up to Europarties to introduce or regulate it. Indeed, according to art. 2(3), Europarties are political alliances pursuing political objectives and registered with the APPF, with art. 2(2) specifying that political alliance means structured cooperation between political parties *and/or citizens* (emphasis added). Yet, transnational movements – of citizens, rather than parties – are not fully recognised by the current legal framework. Registration depends on parliamentary representation at the national or sub-national level or electoral success (3 percent of the votes in EP elections in a quarter of the member states). Clearly, these are challenging thresholds to be met without the support of party organisations at national level.

Furthermore, individual membership is mentioned by two other articles of the current regulation. According to art. 20(9), citizens who are members of Europarties or foundations can contribute up to a value of EUR 18,000 per year, unless the member is also an elected member of the EP, of a national parliament or a regional parliament or regional assembly (for such categories, there is no ceiling). Another article (art. 32) asks the EP to make the total number of individual members for each registered Europarty public.

Reviewing the current statutes, internal regulations, and websites of the registered Europarties, individual (mass) membership appears to be still very limited. True, individual membership is normally possible, but this is limited to elected representatives (MEPs/MPs) and not open to ordinary citizens. In the other cases (with some exceptions) it is either indirect – that is, obtained via national party membership – or conceived as a 'soft' type of membership, with 'supporters', 'activists' and the like contributing to the activities of Europarties (i.e., campaigning) but with limited decision-making powers or representation in internal party structures. Table 2 reviews the provisions on individual members for the ten registered Europarties.

Looking more in detail at the provision on individual membership,<sup>46</sup> the EPP was the first Europarty to introduce 'supporting' membership in 1990. The Statutes of the EPP (Art. 5), indicate that individual members are elected members of the EPP group in the EP, or other groups upon application. However, the EPP internal regulations (2019) prescribe that supporting members are invited to the Congress as guests (art. I.a). They further clarify that supporting members do not enjoy the same rights as the members mentioned in the Statutes but may be invited by the President to attend meetings of certain organs or bodies of the association (art. VIII.d). This Europarty is discussing the introduction of "EPP citizens", affiliated to a member party, with some degree of decision-making power, such as electing delegates with voting and speaking rights.<sup>47</sup>

The PES created 'activists' in 2005, defined by its website as "the grassroots of the socialist and social democratic family".<sup>48</sup> As described by art. 18 of the PES Statutes (2018), all individual members of member parties automatically become PES members, but those who wish to be active have to register as PES activists. City groups of activists were also launched and, today, there are more than 200 of them. Furthermore, art. 21.6 prescribes that policy proposals may be presented by three hundred signatures of PES activists who are members of at least one quarter of full or associate PES member parties and present them before the PES Congress.

The EGP established an individual supporters' network in 2002, which was then formalised in 2009. Membership is indirect: members need first to be members of Green national parties. Currently, EGP supporters no longer exist, but there are other ways for individuals to participate in the activities of this Europarty such as the 'change making network' digital platform.<sup>49</sup>

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<sup>46</sup> For additional historical details, see Hertner, I., 'United in diversity? Europarties and their individual members' rights', *Journal of European Integration*, Vol. 41, No 4, 2018, pp. 491-492.

<sup>47</sup> Interview November 2021.

<sup>48</sup> See the website [activists.pes.eu](http://activists.pes.eu)

<sup>49</sup> Interview November 2021.

Table 2. Provisions on individual membership of the Europarties

<b>Europarty</b>	<b>Individual membership (citizens)</b>	<b>National party membership as precondition</b>	<b>Membership fees</b>	<b>Number of individual members</b>
EPP	Supporting members	No	20€ Min.	11
PES	Activists	Yes, but they have to register	None	138
ALDE	Individual members	No	10€ (<30y) or 20€	955
EDP	Possible but not implemented	No	n/a	4
EGP	Supporters (discontinued)	Yes	24€	6
PEL	Individual members	Yes (EU members) No (non-EU members)	None (voluntary)	351
ECRP	No	No	n/a	4
EFA	No	No	n/a	0
ECPM	No	No	n/a	54
IDP	No	No	n/a	2

Note: The number of individual members was retrieved from the EP website (latest data: March/April 2021) See: <https://www.europarl.europa.eu/contracts-and-grants/files/political-parties-and-foundations/audit-reports-and-donations/en-number-of-individual-members-per-european-political-party-2021-05.pdf>

Individual membership has been possible for the PEL since 2007.<sup>50</sup> According to art. 8 of the party Statute (2018), in countries where full-right member parties or political organisations exist each member party or political organisation is free to decide to give the opportunity for individual membership and to adopt – for its own country – the most convenient approach and practical methods. The statutes further indicate that such individual members can form friendship circles associated to these parties of the PEL. Individual membership is also open for citizens of other

<sup>50</sup> In 2005, at the first party Congress, individual membership was introduced for a 'period of experimentation'. The PEL has been for some time the only Europarty to allow individual membership to activists outside member parties. See Dunphy, R. and March, L., *The European Left Party*, Manchester University Press, Manchester, 2020, p. 108.

European countries associated to the EU, who can join or create a national group of individual members by applying for observer status in the PEL.

The ALDE Party introduced individual membership in 2011.<sup>51</sup> In this latter case, membership is direct, and members have a say in decision-making – their delegates have the right to vote at the party congress – and participate in decision-making bodies like the party Council and by contributing to resolutions. The ALDE Party gives strong prominence to individual membership on its website.<sup>52</sup>

As for the other Europarties, individual membership is reserved to elected politicians only. Since 2004, individuals can join the EDP (Art. 7 of its Statutes), but in practice this provision has not been implemented.

The EP has often recommended including more specific provisions on individual membership in the party regulation. Thus, in its 2006 resolution on European political parties, it urged the statute to “include provisions on individual membership of parties at European level”<sup>53</sup>. In 2011, the Giannakou report invited Europarties to “start a process of considering the terms for direct individual membership and appropriate arrangements for individuals’ direct or indirect participation in the internal activities and decision-making processes of the parties”.<sup>54</sup> Authoritative observers of EU politics have also recommended that “individual membership should be recognised by the European parties”.<sup>55</sup> More recently, it has been argued that financial incentives could be granted to Europarties that introduce and expand individual membership, in order to promote it.<sup>56</sup>

In its evaluation report, the EP was critical of the current situation – lamenting that “a flawed design in the Regulation limits European political parties in truly fulfilling their role as modern political parties connecting citizens to the political system as they are unknown to citizens due to limited individual membership [...]”<sup>57</sup> – but fell short of recommending specific provisions on individual membership. It has however stressed the “the need for a definition of members in order to have legal certainty on the different types of membership, the members’ relationship with the European political party they adhere to and the requirements they have to meet”.<sup>58</sup>

The legislative proposal has neither introduced a clear definition of individual membership – as membership of citizens, rather than political elites – nor provided financial incentives for those Europarties willing to give more ‘weight’ to individual membership, not only recognising individual

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<sup>51</sup> To celebrate the 10-year anniversary of the introduction of individual membership, the ALDE Party Secretariat launched a survey for Individual members and Liberal associates in August 2021. Interestingly, it revealed that ‘belonging to a pan-European liberal party’ is the reason of choice for membership of 86.7% of respondents, followed by invitations to events – including the Congress – and having a say in policy making through resolutions (ALDE Party, *Liberal Bulletin*, Brussels, Second Issue 2021).

<sup>52</sup> See [www.aldeparty.eu](http://www.aldeparty.eu): “because we believe each person has the right to have a say, we are also the only pan-European party with individual citizen members”.

<sup>53</sup> European Parliament, *Resolution on European political parties*, 2005/2224(INI), 23 March 2006.

<sup>54</sup> European Parliament, *Resolution on the application of Regulation (EC) No 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding*, 2010/2201(INI), 6 April 2011, art. 26.

<sup>55</sup> Priestley, J., *European political parties: the missing link*. Notre Europe. Policy Paper 41, 2010, p. 21.

<sup>56</sup> Drounau, L., *A smarter funding system for European parties*, Policy Brief 01/2021, ÖGfE, Vienna, 2021, pp. 8-9. OSCE Office for Democratic Institutions and Human Rights. *Preliminary Comments on Reforming Regulation 1141/2014*, cit., 2021, p. 26.

<sup>57</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, cit., art. 24.

<sup>58</sup> *Ibidem*, art. 34.

membership but also giving individual members real decision-making powers in the internal party structures.

### 3.1.2 Third-country party membership

Europarties derive their financial resources from the EU budget and from own resources (donations and contributions). While donations from outside the EU – from public institutions and private donors – are explicitly forbidden by the current regulation, contributions (incidentally, the largest share of income after EU funds) have traditionally been provided by member parties, both from EU member countries and from outside the EU. Indeed, Europarties have traditionally liaised and cooperated with parties beyond EU borders, for instance playing a significant role in its enlargements and the EU neighbourhood.<sup>59</sup> Brexit has also introduced the category of former member states, affecting the relationship between Europarties and their British members. In their statutes, Europarties have different membership categories – e.g., full membership, associate membership, observers – and have often included parties from outside the EU in their organisations with a different membership category to that of EU member parties.

Yet, in November 2020 the General Court ruled that parties from non-EU countries cannot make contributions, as they are not 'member parties' according to the Regulation.<sup>60</sup> The ruling of the Court had significant implications: Europarties could no longer rely on the financial contribution of their non-EU member parties, which had hitherto contributed the co-funding quota, thus breaking financial ties between them and Europarties and, arguably, weakening the latter's European (rather than merely EU) role.<sup>61</sup> True, the Court argued only against considering parties from non-EU member parties as members and, therefore, against their support of Europarties through contributions (i.e., membership fees). However, the ruling does not have broader implications for Europarties' cooperation with sister parties beyond EU borders.

In the same ruling, the General Court also noted – following the reasoning provided by the Bureau of the EP – that the rules applicable to donations or contributions to foundations are more permissive than those applicable to parties. Indeed, the EP monitors Europarties more strictly than it does foundations, as the former play a stronger political role in the EU and member states, which foundations are asked to support and complement. The different regime applicable for Europarties and foundations has been criticised for its dubious coherence and the risks of foreign interference.<sup>62</sup>

Stakeholders have generally regarded the case-law of the court as too restrictive. Membership fees are deemed to be important not only financially, but also politically.<sup>63</sup> In its assessment report, the EP has recognised that, following Brexit especially, "there is an increased need to revise different

<sup>59</sup> See Delsoldato G., *Eastward Enlargement by the European Union*, cit.; Bressanelli, E., *Europarties after enlargement. Organisation, Ideology and Competition*, Palgrave Macmillan, Basingstoke, 2014; Chrysogelos, A., 'Europarties in the neighbourhood: how transnational party politics bind Eastern Europe and the Western Balkans to the EU', *Comparative European Politics*, Vol. 19, No 1, 2021, pp. 77-93.

<sup>60</sup> Court of Justice of the European Union, Case T-107/19 *Alliance of Conservatives and Reformists in Europe (ACRE) v Parliament*, 25 November 2020.

<sup>61</sup> See Table A in the Annex for further information on contributions from members from non-EU countries based on the independent audit reports published by the EP.

<sup>62</sup> "It should be noted that a similar unequivocal clarification has not been made for EU foundations". Authority for European Political Parties and European Political Foundations, *Annual Activity Report 2020*, Publications Office of the European Union, Luxembourg, 2021, p. 16. See also the intervention of the then Director of the APPF, Michael Adam, at the joint hearing of the INGE/AFCCO Committees, *How to make political party and campaign financing more transparent: what rules do we need in the EU?* on 23 February 2021.

<sup>63</sup> Interviews, November 2021.

categories of party membership and the collection of membership fees [...]” and that «the lack of clear definitions of modalities of membership of European political parties and the lack of differentiated levels of affiliation to European political foundations in the Regulation [...] do not allow for flexibility in the internal organisation of European political parties and foundations”.<sup>64</sup> MEPs and stakeholders pushed for the new regulation to explicitly mention specific groupings, such as candidate countries and former member states, whose parties could financially contribute to Europarties. The EP report talks more broadly about “member states of the Council of Europe and other European countries” (art. 33).<sup>65</sup>

In its legislative proposal (cfr. Table 3), the Commission takes on board the stakeholders’ recommendations, indicating that contributions from “member parties that have their seat in a country belonging to the Council of Europe shall be permitted” (art. 23.9). Yet, it adds further restrictions: while the ceiling for the overall value of contributions (maximum 40% of the annual budget) remains the same, it specifies that the contributions from parties from non-EU member countries should not amount to more than 10% of the above quota. The Commission has also added a welcomed specific provision for foundations, which would be subject to the same rules.

The new rules strike a balance between supporting Europarty networks and activities via-à-vis non and former EU countries, which had been constrained by the judicial interpretation of the previous rules, and limiting the undue influence of foreign countries, which could seek to exert hidden influence over EU politics with foreign funding, through the 10% rule. It may be questioned whether the Council of Europe category, however, is too broad, as it includes countries which have ostensibly sought to undermine the EU through ‘malign funding’ and foreign interference (for an overview of the current membership of political parties from non-EU member countries, see Figure A in the Annex).<sup>66</sup>

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<sup>64</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations*, 2021/2018(INI), 11 November 2021, para. 18-19.

<sup>65</sup> The Council of Europe (CoE) currently has 47 member states. The 27 member countries of the EU are also members of the CoE. The other members are: Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Iceland, Liechtenstein, Monaco, Montenegro, North Macedonia, Norway, Republic of Moldova, Russian Federation, San Marino, Serbia, Switzerland, Turkey, Ukraine, United Kingdom.

<sup>66</sup> Bressanelli, E., Di Palma, A., Inglese, G., Marini, S. and Repetto E., *Institutions and Foreign Interferences*, Study, European Parliament, Brussels, PE 655.290, 2020.

Table 3. Third-country party membership

<b>Consolidated Regulation 1141/2014</b>	<b>Evaluation report 2021/2018(INI)</b>	<b>Commission proposal COM(2021) 734 final</b>
<p>Neither explicitly forbidden, nor explicitly allowed.</p> <p>*Forbidden based on case-law: Case T – 107/19, <i>ACRE vs Parliament</i></p>	<p>33. Insists [...] that the affiliation of members from member states of the Council of Europe and other European countries be allowed</p>	<p>Art. 23(9): Contributions from members of a European political party that have their seat in, or are citizens of, a Member State or from member parties that have their seat in a country belonging to the Council of Europe shall be permitted. The total value of contributions from members shall not exceed 40% of the annual budget of a European political party. The value of contributions from member parties that have their seat in a country outside the Union shall not exceed 10% of the total contributions from members.</p> <p>Art. 23(10): <i>same rules for foundations</i></p>

## 3.2 Relations with national parties

### 3.2.1 Indirect funding

The current regulation prohibits Europarties and their foundations from (directly or indirectly) funding political parties or candidates. However, as noted some time ago, “the restriction on transfers to national parties has created some ambiguity as to just what Europarties are permitted to do”.<sup>67</sup> Indeed, the first amendment to the regulation in 2007 already extended the range of activities that Europarties were allowed to finance, including “financing campaigns conducted by the political parties at European level in the context of the elections to the European Parliament”.<sup>68</sup> Later, the EP vocally and repeatedly asked to allow Europarties to also participate in referendum campaigns, as long as they are about EU-related issues.<sup>69</sup> While EU money could not be used to finance national parties or candidates, unnecessary restrictions should not be placed on the capacity of Europarties to raise awareness of the EU, in line with the treaty prescriptions.

The indirect funding of national parties and candidates has been a thorny issue as soon as Europarties began to be supported financially by the EU, but it became even more salient after 2015, when some allegations on the improper use of EU funds by some Europarties came to light. The Court of Justice of the EU has tried to clarify the matter,<sup>70</sup> concluding that, while the concept of indirect funding is an “an undetermined legal concept”, it can be observed when “a national political party derives a financial advantage, inter alia by avoiding expenditure which it would have had to

<sup>67</sup> Lightfoot, S., ‘The consolidation of Europarties? The ‘party regulation’ and the development of political parties in the European Union’, *Representation*, Vol. 42, No 4, 2006, p. 308.

<sup>68</sup> Regulation (EC) No. 1524/2007 of the European Parliament and of the Council amending Regulation (EC) No. 2004/2003, 18 December 2007, art. 8.

<sup>69</sup> European Parliament, *Resolution on the application of Regulation (EC) No 2004/2003*, cit., art. 11, 25.

<sup>70</sup> Cfr. Anglmayer, I., *Statute and Funding of European political parties under Regulation 1141/2014*, cit., pp. 43-46.



incur, even where no funds are directly transferred”.<sup>71</sup> The definition of indirect funding has been restated in several later rulings.<sup>72</sup>

Not only the Court, but also other institutional players tried to clarify what activities Europarties were allowed to fund, particularly in the context of the EP election campaigns. In the run-up to the 2019 elections, the APPF and the EP’s Authorising Officer developed five principles for campaigning activities, the respect of which would mean eligibility for EU funding. It is worth reporting them in full:<sup>73</sup>

- *Scope.* Campaigns by Europarties must be carried out in several Member States to be regarded as having a European dimension.
- *Content.* Truly European campaigns must also predominantly focus on European topics, that is, topics that affect citizens across the EU. In other words, Europarties must avoid including purely national, regional or local topics in their campaigns.
- *Ownership.* Europarties must always be able to demonstrate that campaigns were carried out in the context of the European elections, and in their interest as contestants in those elections. Europarties must be the owners of the campaigns and take responsibility for them.
- *Authorship.* Campaigns by Europarties must be clearly and unambiguously attributable to them through, for example, logos and banners. Put differently, EU citizens must be able to associate those campaigns with the Europarties running and financing them.
- *National law.* Campaigns by Europarties must be compatible with the applicable national law.

Europarties welcomed the clarification of the rules concerning the joint organisation and co-financing of activities.<sup>74</sup> In its opinion on the EP assessment report, the CONT committee also expressed its appreciation to the APPF and DG FINS for having developed “a set of principles to render operational the right of EU political parties to campaign in European elections, while at the same time setting out its limits”.<sup>75</sup> The EP had already expressed its strong criticism of the ban on financing referendum campaigns on EU issues, while stressing that “owing to restrictive measures at European and national levels, European political parties cannot fully participate in European election campaigns” in its 2020 resolution on the 2019 EP elections.<sup>76</sup> The assessment report clearly recommends that the Commission provides an operative definition of indirect funding – in order not to hamper the activity of Europarties – and to lift the ban on referendum campaigns on EU matters (cfr. Table 4). Experts had also warned that restricting the capacity of Europarties and their foundations to finance events, congresses, publications, communications, and campaign activities

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<sup>71</sup> Court of Justice of the European Union, *Case T-829/16. Mouvement pour une Europe des nations et des libertés v. European Parliament*, art. 72.

<sup>72</sup> See Court of Justice of the European Union, *Case T-48/17 Alliance for Direct Democracy in Europe ASBL (ADDE) v. European Parliament*, 25 November 2020, para. 71 and Court of Justice of the European Union, *Case T-107/19 Alliance for Conservatives and Reformists in Europe (ACRE) v. European Parliament*, cit., para. 53.

<sup>73</sup> Authority for European Political Parties and European Political Foundations, *Annual Activity Report 2019*, Publications Office of the European Union, Luxembourg, 2020, p. 15.

<sup>74</sup> *Ibidem*, p. 15.

<sup>75</sup> CONT Committee, *Opinion for the AFCO Committee on European political parties – report 2021, 2021/2018(INI)*, 13 July 2021.

<sup>76</sup> European Parliament, *Report on stocktaking of European elections*, cit., para. 27.

on EU-related matters “does not seem justified”.<sup>77</sup>

The legislative proposal takes full consideration of the demands of Parliament. It provides both a clarification of “indirect funding” – based on the case-law of the CJEU – and authorises Europarties and their foundations to finance referendum campaigns on EU matters. Although the operational conduct is not specified, similar principles to those applied in the context of the campaign for the EP elections could probably be applied. Despite the requests made by some actors to include the principles in the regulation, the need to modify them in view of their practical application (also in the case of national referendums on EU matters) would justify their inclusion in a softer legal instrument, such as a code of conduct.

Table 4. Indirect funding of national parties and election campaigns

<b>Consolidated Regulation 1141/2014</b>	<b>Evaluation report 2021/2018(INI)</b>	<b>Commission proposal COM(2021) 734 final</b>
<p>Art. 22(1): the funding of European political parties from the general budget of the European Union or from any other source shall not be used for the direct or indirect funding of other political parties, and in particular national parties or candidates. Those national political parties and candidates shall continue to be governed by national rules.</p> <p>Art. 22(2): The funding of European political foundations [...] shall in particular not be used for the direct or indirect funding of elections, political parties, or candidates or other foundations</p> <p>Art. 22(3): funding [...] shall not be used to finance referendum campaigns</p>	<p>16. Underlines the need to make the definition of indirect funding from European political parties and foundations to national counterparts and members more precise and simpler in order to avoid hampering their required cooperation in promoting and explaining EU policies, as well as their engagement with EU citizens;</p> <p>32. Calls for the prohibition on financing referendum campaigns to be lifted to allow European political parties to finance referendum campaigns that are related to the implementation of the TEU or the TFEU;</p>	<p>Art. 2(10): ‘indirect funding’ means funding from which the member party derives a financial advantage, even where no funds are directly transferred; this should include cases which allow the member party to avoid expenditure which it would otherwise have had to incur for activities, other than political activities in the common interest, organised for its own and sole benefit;</p> <p>Art. 25(1): the funding of European political parties [...] shall not be used for the direct or indirect funding of other political parties, and in particular national parties or candidates [...]</p> <p>Art. 24(2): The funding of European political parties and European political foundations [...] may be used to finance referendum campaigns when those campaigns concern the implementation of the Treaties of the Union</p>

<sup>77</sup> European Democracy Consulting and REPRESENT (2021), *Submission to the European Commission and to the European Parliament. Addendum on Reforming Regulation 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations*, p. 19.

### 3.2.2 *Visibility and recognition at the member state level*

The visibility of Europarties at the national level and their recognition by EU citizens have – as Chapter 2 has shown – traditionally been scant. Regulation 1141/2014 had sought to address this issue, by establishing – as a precondition for EU funding – that the member parties display on their webpage the political programme and logo of their Europarty (art. 18(2)). The objective to link Europarties more tightly with their national member parties is also shared by the amended European Electoral Act (not in force), which prescribes that member states “may allow for the display, on ballot papers, of the name or logo of the European political party to which the national political party or individual candidate is affiliated”.<sup>78</sup>

Recent empirical research has shown that the level of ‘Europeanisation’ of the national party websites and ballot papers remains low and, in the former case, it casts some doubts on the extent to which art. 18.2 has really been implemented. Figure 2 displays data – collected by the European Democracy Consulting for the Logos project<sup>79</sup> – on the visibility of the Europarty logo on the websites of national parties. It has to be stressed that the figure shows the share and number of national parties not displaying the logo on their homepage. As such, this is a more stringent requirement than that prescribed by the existing rules, indicating that the logo and programme of the EUPP have to be published in a “clearly visible and user-friendly manner”. It is worth mentioning that some websites did not work, making information impossible to retrieve.

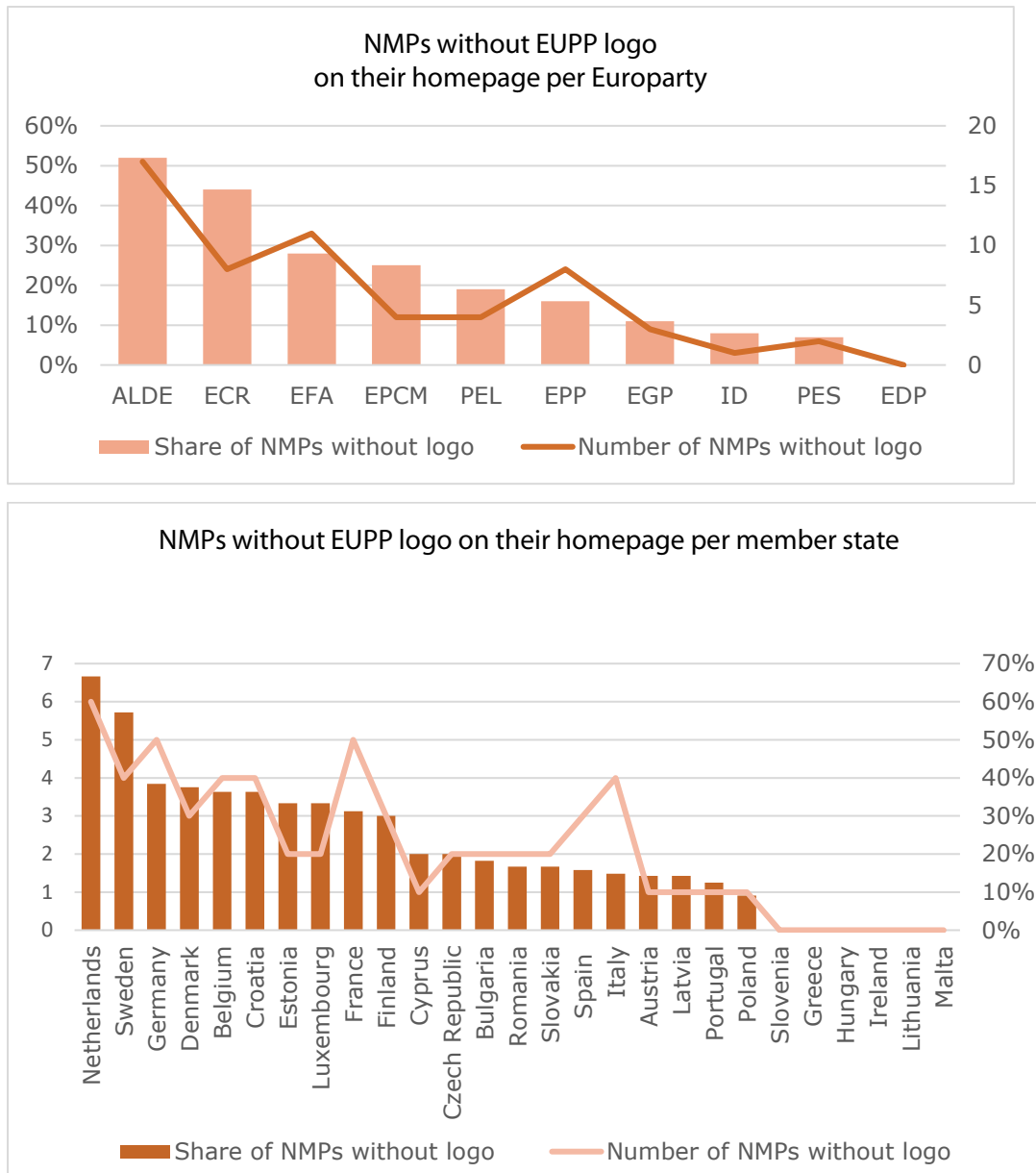
According to such data, a remarkable number of national member parties do not show the corresponding EUPP logo on the homepage of their website: this is the case for more than half of the member parties of the ALDE and more than 40% of those of the ECR Party. On the other hand, all EDP parties do so. Disaggregating data per member state, in ten of them, mainly in Northern Europe, at least 30% of national parties do not display the Europarty logo on the homepage.

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<sup>78</sup> Council of the EU, *Council Decision (EU, Euratom) 2018/994*, art. 3b.

<sup>79</sup> European Democracy Consulting (2021), *Report. The logos Project*, April 2021, <https://eudemocracy.eu/logos-project>.

Figure 2. Visibility of the Europarty logo on the websites of national parties



Note: elaboration from European Democracy Consulting (2021)

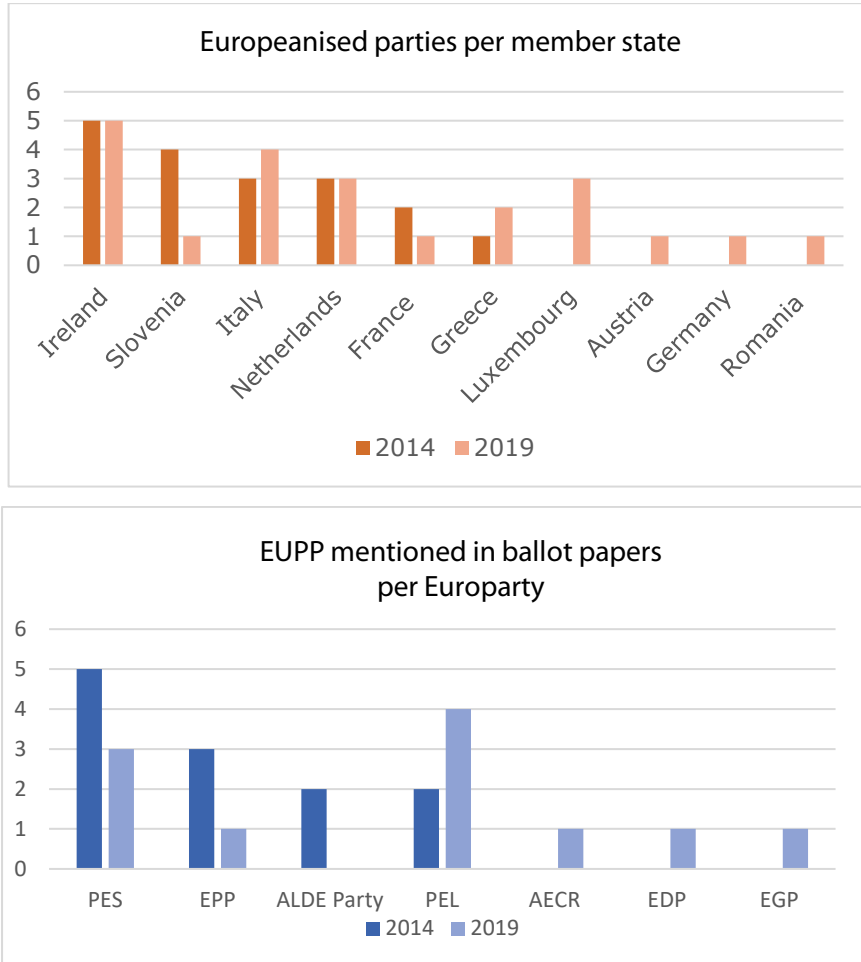
There is, instead, at present no legal requirement to refer to the EUPPs or to display their logos on the ballot papers for the EP elections, although this is being discussed in the context of the reform of the EU Electoral Act.<sup>80</sup> Figure 3 displays data – collected by Cicchi for a Study on the Europeanisation of EP elections<sup>81</sup> – showing the degree of Europeanisation (operationalised as the reference to EUPPs, political groups, transnational associations or reference to *Spitzenkandidaten*) of political parties in a sample of EU member states. Overall, Europeanisation remains low: in 2019,

<sup>80</sup> AFCO Committee, *Draft Report on the reform of the electoral law of the European Union, 2020/2220(INL)*, 1 July 2021.

<sup>81</sup> Cicchi, L., *Europeanising the elections of the European Parliament. Outlook on the implementation of Council Decision 2018/994 and harmonisation of national rules on European elections*, Study, European Parliament, Brussels, PE 694.199, 2021, pp. 20-21.

most countries counted only a single Europeanised party and, of particular relevance here, the Europarty labels were hardly used. If the 2014 and 2019 EP elections are compared, changes appear limited.

Figure 3. Visibility of Europarties on the ballot paper in EP elections



Given the evidence, both the EP and stakeholders asked the Commission to amend the relevant article in the party regulations. For instance, in its opinion the CONT committee expressed its concern that the vast majority of national member parties seems to fail to properly implement the requirement to clearly display the logo and programme of the EUPP<sup>82</sup> and this concern was echoed in the final assessment report of the EP (cfr. Table 5). In their recommendations on the reform of the regulation, European Democracy Consulting and Represent suggested that the logo of the EUPP should be located in the top section of the homepage of the national party website and be the same

<sup>82</sup> CONT Committee, *Opinion for the AFCO Committee on European political parties*, cit., art. 16.

size as its own logo.<sup>83</sup> Europarties also lament that this requirement implies – with member parties continuously changing and updating their websites – extensive administrative work on their side.<sup>84</sup>

In its legislative proposal, the Commission made the requirement to display the logo and the programme of the EUP both stricter and clearer. On the one hand, the EUPP's statutes will need to include a specific requirement for the member parties to display the logo on their website. The proposal also specifies that the logo is to be located in the top section of the homepage of the member party's website and in an equally visible manner to the member party's own logo. Two aspects remain, however, to be considered. First, the emphasis on the websites is certainly justified, but there are other – and, today, arguably more important – tools for parties to make themselves visible to the public.<sup>85</sup> For instance, the regulations do not mention social media but, when national parties have their official social media accounts, they could also be pushed to indicate there their EUPP membership. Second, the visibility of Europarties is not only tackled by the party regulation and, as the issue of their name on the electoral ballot shows, it would be equally important to finalise other legislation to ensure that Europarties become more visible actors to EU citizens.

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<sup>83</sup> European Democracy Consulting and represent (2021), *Submission to the European Commission and to the European Parliament*, cit., p. 9.

<sup>84</sup> Interviews, November 2021.

<sup>85</sup> See, for instance, the intervention by Uta Rußmann in the public hearing on an "EU public sphere" held by the AFCCO Committee on 26.01.2022.

Table 5. The visibility of Europarties on the national party websites

<b>Consolidated Regulation 1141/2014</b>	<b>Evaluation report 2021/2018(INI)</b>	<b>Commission proposal COM(2021) 734 final</b>
Art. 18(2)(a): A European political party shall include in its application evidence demonstrating that its EU member parties have, as a rule, published on their websites, in a clearly visible and user-friendly manner, throughout the 12 months preceding the final date for submission of applications, the political programme and logo of the European political party.	15. [...] is concerned that according to European Democracy Consulting's Logos project, national member parties overwhelmingly fail to properly implement the Regulation's display requirement, as only 15 % of them display the logo in a clear and user-friendly manner;  29. Calls on the Commission to provide clear requirements and detailed guidelines related to the visibility of the European political party of affiliation in order to ensure enforcement of Article 18(2)(a) of the Regulation on displaying European political parties' logos alongside the logos of national or regional parties.	Art. 4(1)(i): [ <i>insert in the Statute</i> ] a requirement that member parties display the European political party's logo in a clearly visible and user-friendly manner, specifying that it is to be located in the top section of the front page of the member party's website and in an equally visible manner as the member party's own logo;  Art. 21(3): A European political party shall include in its application evidence demonstrating that its EU member parties have, as a rule, published on their websites [...] throughout the 12 months preceding the final date for submission of applications, the political programme and logo of the European political party.

### 3.3 Funding

#### 3.3.1 Quota of EU funding

When Regulation 2004/2003 introduced a mixed regime for the funding of Europarties, they could expect up to 75% of their own budget to be covered by EU funds, with the remaining 25% to be financed by 'own resources'. The 25% quota was justified by the need to guarantee that parties were not funded exclusively by the 'state' but maintained links with society.<sup>86</sup> If the Europarties (which are elite-led organisations, cfr. Chapter 2) were only supported by EU funds, they would run the risk of becoming 'introverted' political players, focusing their activities only on policy-making and office appointments in Brussels, rather than connecting with EU citizens and organised interests. This is arguably a development that has characterised national parties in the last three decades, with

<sup>86</sup> Morlok, M., 'Constitutional Framework', in Johansson, K. M. and Zervakis, P. (eds), *European Political Parties between Cooperation and Integration*, Nomos, Baden-Baden, 2002, p. 39; Lightfoot, S., 'The consolidation of Europarties?', cit., p. 308.

“cartel parties” becoming part of the state rather than connecting citizens and governing institutions.<sup>87</sup>

Over time, the successive reforms of the party regulations have progressively reduced the quota of own-resources (cfr. Table 6): it amounted to 25% in Regulation 2004/2003, which became 15% with the amended Regulation 1524/2007, to be further reduced to 10% for parties and only 5% for foundations with Regulation 1141/2014, as amended in 2018.<sup>88</sup> The trend has been unequivocal: in each round of reform, the quota of own resources has been reduced, while the quota of public money has increased. In the current regime, EU money represents the lion’s share of Europarties financial resources, and even more so for political foundations.

According to the regulations currently in force, if EUPPs/EUPFs do not manage to collect the required share of own resources, their EU funding is lowered until it corresponds to 90% and 95% of total expenditure, respectively. As the budget for Europarties and associated foundations has grown over time, they have been required to collect more own resources. This task has proven to be difficult for all, especially – but not only – for the smaller Europarties and foundations.<sup>89</sup>

Table 6. The legal development of EU funding

<b>Regulation 2004/2003</b>	<b>Regulation 1524/2007</b>	<b>Regulation 1141/2014 (as amended in 2018)</b>
Art. 10(2): Funding charged to the general budget of the European Union shall not exceed 75 % of the budget of a political party at European level.	Art. 10(2): Funding charged to the general budget of the European Union shall not exceed 85 % of those costs of a political party or political foundation at European level which are eligible for funding	Art. 17(4): Financial contributions or grants from the general budget of the European Union shall not exceed 90 % of the annual reimbursable expenditure indicated in the budget of a European political party and 95 % of the eligible costs incurred by a European political foundation.

In its evaluation report, the EP recognised that “the co-financing level imposed, in particular on European political parties, has proved very difficult to achieve”<sup>90</sup> and proposed lowering the required own resources to 5%, thus making Europarties’ share equal to that of foundations. In the explanatory statement of the legislative proposal, the Commission accepted that “some European political parties, in particular the smaller ones, face difficulties in collecting the necessary resources

<sup>87</sup> Katz, R. S. and Mair, P., ‘Changing models of party organisation and party democracy: The emergence of the cartel party’, *Party Politics*, No 1, 1995, pp. 5-28; Katz, R. S. and Mair P., ‘The Cartel Party Thesis: A Restatement’. *Perspectives on Politics*, Vol. 7, No 4, 2009, pp. 753-766.

<sup>88</sup> Regulation 1141/2014 maintained the 85% quota from financial contributions or grants from the EU budget for both political parties and foundations.

<sup>89</sup> Cfr. the data collected by Wouter Wolfs in European Commission, *Impact Assessment Report*, cit., p. 16.

<sup>90</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, cit., para. 22.



to match the co-financing rate”.<sup>91</sup> The ensuing legislative proposal not only brings the level of own-resources down to 5%, but it also introduces a completely public funding regime in EP election years (cfr. Table 7).

There is no doubt that the legislative proposal takes on board the highly consensual demands of stakeholders, almost bringing to completion a process that, in the last two decades, has seen the quota of own-resources progressively reduced. Yet, there are some risks associated with this change, as an excessive dependence on public funding tends to further weaken links with society. The EP itself had, in the past, stressed that “the self-financing of parties and foundations is a sign of vitality”.<sup>92</sup> Relying on public funding could be a safe and convenient option for parties, but the rationale behind the mixed-regime chosen by the legislators when the first regulation was approved remains compelling. For such reasons, bolder alternatives like a matching system, providing public funding matching private donations, could also have been considered.<sup>93</sup>

Table 7. The reform of EU funding

<b>Consolidated Regulation 1141/2014</b>	<b>Evaluation report 2021/2018(INI)</b>	<b>Commission proposal COM(2021) 734 final</b>
Art. 17(4): Financial contributions or grants from the general budget of the European Union shall not exceed 90 % of the annual reimbursable expenditure indicated in the budget of a European political party and 95 % of the eligible costs incurred by a European political foundation	37. Advocates the lowering of the required own resources rate for political parties to 5 % instead of 10 % to align it with the rate applicable to foundations	Art. 20(4): Financial contributions or grants from the general budget of the European Union shall not exceed 95% of the annual reimbursable expenditure. Financial contributions in the year of elections to the European Parliament may cover 100% of the reimbursable expenditure incurred by a European political party

### 3.3.2 The distribution key

According to Regulation 1141/2014, funds are allocated on the basis of the following distribution key (cfr. Table 8): 10% are assigned in equal shares to all Europarties, while 90% are assigned on the bases of the number of elected MEPs per Europarty. The same rule for distributing the funds is used for foundations. The current lump sum is smaller than what the original party regulation prescribed (15%). Obviously, a larger lump sum favours the smaller parties, particularly those represented in

<sup>91</sup> European Commission, *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 (recast)*, 2021/0375(COD), 25 November 2021, pp. 8-9.

<sup>92</sup> European Parliament, *Resolution on the application of Regulation (EC) No 2004/2003*, cit., art. 17.

<sup>93</sup> OSCE Office for Democratic Institutions and Human Rights (2021), *Submission to the European Commission and to the European Parliament. Preliminary Comments on Reforming Regulation 1141/2014*, cit.

Parliament by a handful of MEPs. However, the Commission has followed a different logic and, in its proposals for the reform of the regulation in 2018, even proposed a 5:95 distribution key.

Table 8. The distribution of funds

<b>Regulation 2004/2003</b>	<b>Regulation 1141/2014 (as amended in 2018)</b>
Art. 10: (a) 15 % shall be distributed in equal shares; (b) 85 % shall be distributed among those which have elected members in the European Parliament, in proportion to the number of elected members.	Art. 19: 10 % shall be distributed among the beneficiary European political parties in equal shares, 90 % shall be distributed among the beneficiary European political parties in proportion to their share of elected members of the European Parliament.  The same distribution key shall be used to award funding to European political foundations

According to some stakeholders, the distribution of the funds should not favour large Europarties as much as it currently does (with the current rules, the EPP and the PES receive nearly half of the budget). Some of them argued increasing the lump sum to 20% or even 25%. Based on the recommendations of the Venice Commission on “political pluralism” and “equal opportunities to compete in elections”, the OSCE advised increasing the percentage of the lump sum from its current level.<sup>94</sup>

Differences between and within the political groups emerged on another issue: whether the distribution of the 90% should be based on parliamentary seats (as it is in the current regulation) or on the votes obtained in the previous EP elections. The assessment report drafted by AFCO maintained that the Commission should consider distributing funds on the basis of the number of votes received by the Europarties in the previous EP elections.<sup>95</sup> However, the issue sparked controversy, and was unusually divisive both between and within the political groups. The recommendation to the Commission to consider and assess a vote-based funding system was eliminated from the final parliamentary report, which was amended in plenary (cfr. Chapter 2).

European Democracy Consulting supported a change to a vote-based system, arguing that the current system tends to penalise Europarties with smaller member parties and reward the larger ones: “while the EPP and the PES have received, via their member national parties, a combined 37% of the vote at the 2019 EP elections, they have received over 48% of allocated public funds for 2020 and 2021”.<sup>96</sup> Yet, it also accepted that “the main challenge of this reform is to precisely assess the number of votes received by European political parties”.<sup>97</sup> On the other hand, several Europarties

<sup>94</sup> Ibidem, p. 22.

<sup>95</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, cit., para. 28.

<sup>96</sup> Drounau, L., *Running the numbers*, European Democracy Consulting, 9 July 2021, <https://eudemocracy.eu/running-the-numbers>

<sup>97</sup> Ibidem.

(and not only the largest ones) seemed unconvinced by the complexity of the proposed vote-based system.<sup>98</sup>

The Commission, which in the past had already expressed the conviction that representation in the EP could “provide a precise indication of the electoral recognition of a European political party, and identifies those parties that are in a position to fully participate in the democratic life of the EU”,<sup>99</sup> seemed also unconvinced by the change, not including it in its legislative proposal.

### 3.3.3 Foreign funding and transparency

Before the latest round of reform of the regulation, a ban on donations from any public authority from a third country, including from any undertaking over which they have dominant influence, was in place. Regulation 1141/2014 added further restrictions – also in response to a critical opinion of the European Court of Auditors<sup>100</sup> – outlawing donations from any private entity or individual (not entitled to vote in the EP elections) based in a third country. Therefore, the issue of foreign funding, which was not tackled by regulation 2004/2003, has been more tightly regulated with each round of reform (cfr. Table 9).

The tightening of the legal provisions has occurred in the context of heightened concern about foreign interferences, notwithstanding the overall rather limited use of contributions and donations coming from outside the EU, amounting to about 15% of the party/foundation income not covered by EU public funding.<sup>101</sup> While the provisions on foreign funding are robust, some remaining legal loopholes can be exploited by foreign countries willing to undermine democratic procedures in the EU.<sup>102</sup> For instance, foreign funding is legal in some member states. Also, while donations from third countries from citizens not entitled to vote in the EP elections are forbidden, straw donors based in the member states can be used to channel money. Loans are not explicitly tackled by the regulation, although the definition of ‘donation’ also includes them.<sup>103</sup> In its opinion, the Court of Auditors was critical of this omission.<sup>104</sup>

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<sup>98</sup> Interviews, November 2021.

<sup>99</sup> European Commission, *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*, 2012/0237(COD), p. 6.

<sup>100</sup> The European Court of Auditors noted, in its opinion, that the legislative proposal 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. See European Court of Auditors, *Opinion No 1/2013*, cit.

<sup>101</sup> Bressanelli, E., *Investing in destabilisation: How Foreign money is used to undermine democracy in the EU*, Study, European Parliament, Brussels, PE 653.631, 2021, pp. 28-29. Data is for the period 2014-17, that is before the 2018 financial year, when the new rules on funding began being applied.

<sup>102</sup> Ibidem. 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.

<sup>103</sup> 'Donation' means “any cash offering, any offering in kind, the provision below market value of any goods, services (including loans) or works, and/or any other transaction which constitutes an economic advantage for the European political party or foundation”. Regulation 1141/2014, art. 2.7.

<sup>104</sup> The Court observed that the Commission did not introduce any rule concerning loans, their sources and their terms and conditions. See European Court of Auditors, *Opinion No 1/2013 concerning the proposal for a regulation of the European Parliament and of the Council*, cit.

Table 9. The regulation of foreign funding

Regulation 2004/2003	Regulation 1524/2007	Regulation 1141/2014
There is no explicit provision on banning foreign donations	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

Given the current legal framework, the remaining risks of foreign interference are 'circumvention practices'. It has been suggested that, in order to minimise them, the APPF could be empowered further, particularly vis-à-vis donors. For instance, it could be given investigative powers to trace the origins of donations, donors could be addressed directly by the Authority, and levels of cooperation with national authorities or contact points could be strengthened. Donors could also be asked to make confirmatory statements, at least for major donations.<sup>105</sup> In its evaluation report, the EP requested strengthened scrutiny by the APPF of reported aggregate donations totalling more than EUR 3,000, as this would "make substantial/significant external influences on European political parties more transparent". Its scrutiny would be particularly important on cases where "significant and sudden increases" in the aggregate number of small donations was observed.<sup>106</sup> On the issue of loans, the OSCE recommended to clearly spelling out rules on the nature of the permissible lenders, the maximum value of loans, the conditions for the registration of the loans, the timeframe for contracting loans, the terms of repayment, and disclosure requirements.<sup>107</sup>

In its legislative proposal, following the EP's recommendations, the Commission strengthened transparency requirements for all donations exceeding EUR 3,000. It demanded that Europarties and political foundations request donors to provide all the necessary information for their proper identification, which should be transmitted to the APPF upon request. Moreover, the APPF is given additional powers to carry out verifications if it perceives a risk of circumventing the regulation and

<sup>105</sup> Interviews, November 2021.

<sup>106</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, cit., para. 45.

<sup>107</sup> OSCE Office for Democratic Institutions and Human Rights, *Submission to the European Commission and to the European Parliament. Preliminary Comments on Reforming Regulation 1141/2014*, cit., 2021, p. 124.

it may request additional information from Europarties and their donors.<sup>108</sup> On the other hand, the issue of loans – which are a documented way to financially support parties abroad<sup>109</sup> – is still left unspecified by the legislative proposal.

### 3.4 Respecting EU values

Respect for its fundamental values – as per art. 2 TEU – has become a very salient issue for the EU. The issue is also of high relevance for Europarties. According to Regulation 1141/2014, a Europarty “must observe, in particular in its programme and in its activities, the values on which the Union is founded [...] namely respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities” (art. 3(1)(c)). The APPF could sanction Europarties for non-compliance and decide to sanction them in cases of “manifest and serious breach” (art. 10(3)). Sanctions are subject to a complex procedure: a committee of Independent Eminent Persons – whose members are selected in equal numbers by the Council, the Commission and the EP – is asked by the APPF to provide its opinion on the assessment of the breach (art. 11(3)(a)), while both the Council and the EP have to approve the APPF’s decision.

First of all, the key element which has been debated ever since value compliance has become part of the regulation is: who is expected to be compliant? Is it the Europarty, or (also) its member parties? In 2012, the Commission’s legislative proposal for the new regulation indicated that compliance was legally required both from Europarties, and from their members. However, by late January 2014 the possibility to focus not only on the Europarty, but also on its individual member parties had disappeared.<sup>110</sup> In its evaluation report, the EP asked the Commission to amend the regulation, in order to clarify that respect for EU fundamental values should apply to both the Europarty itself and its member parties.<sup>111</sup>

Second, the value compliance mechanism is deemed to be too complex. The APPF cannot trigger the verification procedure *ex officio*, but the request has to come from the Commission, the Council, the EP or the member state where the Europarty has its legal headquarters. Since 2018, the amended party regulation allows EU citizens to ask the EP to trigger the non-compliance mechanism.<sup>112</sup> The committee of Independent Eminent Experts has to provide its opinion, and both the Council and the EP have to approve it. While the rationale behind providing several guarantees before de-registration takes place is compelling, the procedure has thus far never been activated. In its impact assessment, the Commission has asked itself why the compliance mechanism has never been triggered, wondering if the reasons were to be found in the excessive complexity of the procedure,

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<sup>108</sup> European Commission, *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 (recast)*, 2021/0375(COD), 25 November 2021, art. 23(5) and 23(8).

<sup>109</sup> Bressanelli, E., *Investing in destabilisation*, cit., pp. 23-24.

<sup>110</sup> For a detailed reconstruction, Morijn, J., ‘Responding to “populist” politics at EU level: Regulation 1141/2014 and beyond’, *International Journal of Constitutional Law*, Vol. 17, No 2, 2019, pp. 627-629.

<sup>111</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, 2021/2018(INI), art. 9.

<sup>112</sup> Regulation (EU, Euratom) 2018/673 of the European Parliament and of the Council amending Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations, 3 May 2018.

which places too many constraints on the APPF.<sup>113</sup> Also, the opinion of the committee of Independent Eminent Experts has never been asked.

Third, the sanctioning system is deemed to lack proportionality and flexibility. De-registration is a 'nuclear option', which the APPF can only consider for "manifest and serious breaches". Taking into consideration financial sanctions and temporary suspensions has been suggested in order to make sanctions more credible and 'usable'.<sup>114</sup> In addition, as the current regulation only guarantees a right to appeal the APPF imposed sanctions before the CJEU, the possibility to consider an administrative appeal or the creation of a mediator between the APPF and the EUPPs/EUPFs has been raised.

Fourth, the administrative capacity of the APPF to manage the procedure – or several value compliance procedures at the same time – has been questioned, as the Authority itself has observed that it has just enough resources and staff to carry out its ordinary business.

In its legislative proposal, the Commission has introduced a very significant change, by clearly indicating that respect for EU values is not only required for Europarties, but also for their "member parties having their seat in the Union", while member parties outside the EU "should observe equivalent values" (art.3(e)). Europarties are then asked to provide a written declaration of compliance using a given template.

The legislative proposal does not, however, simplify the procedure to assess non-compliance. The Authority has not been granted the power to start the procedure, the role of the committee of Independent Eminent Persons has not been affected, and the Council and the EP are both still asked to approve the procedure. Furthermore, Europarties are responsible for checking the compliance of their members and so run the risk of being sanctioned, placing perhaps an excessive burden on them.<sup>115</sup>

### 3.5 Internal organisation: Democracy and gender

In the current regulatory framework, internal party organisation is a matter for Europarties themselves to decide on. This is broadly in line with the recommendations of the Venice Commission, according to which the internal functions and procedures of political parties should generally be free from state interference.<sup>116</sup> The jurisprudence of the European Court of Human Rights has confirmed that the state regulation of internal party organisation should remain at a minimum, and that the principle of party autonomy should be respected.<sup>117</sup> EU member states also tend to follow a liberal approach, with parties free to organise themselves provided that they respect some basic principles, such as democracy, transparency and equality (i.e., enhancing participation of women, ethnic minorities, people with disabilities).

The issue of including some basic regulatory provisions on internal party democracy had already been discussed when Regulation 1141/2014 came into being. In its legislative proposal, for instance,

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<sup>113</sup> European Commission, *Commission Staff Working Document. Impact Assessment Report*, cit., p. 20.

<sup>114</sup> OSCE Office for Democratic Institutions and Human Rights (2021). *Submission to the European Commission and to the European Parliament. Preliminary Comments on Reforming Regulation 1141/2014*, cit., pp. 15-16.

<sup>115</sup> Interviews, November 2021.

<sup>116</sup> OSCE/ODIHR and Venice Commission, *Joint Guidelines on Political Party Regulation (2nd edition, 2020)*, CDL-AD(2020)032, 24 December 2020, para. 61.

<sup>117</sup> OSCE Office for Democratic Institutions and Human Rights, *Submission to the European Commission and to the European Parliament. Preliminary Comments on Reforming Regulation 1141/2014*, cit., 2021, pp. 12-13.



the Commission spelt out some rules on internal party democracy. However, current art. 4(2) does not include prescriptive rules on internal party organisation, which were instead incorporated into the Commission's original proposal, namely the representation rights of all members, democratic decision-making processes and elections of all governing bodies, and the criteria for the selection of candidates and office holders.

In its evaluation report on the regulation, the EP stressed the importance of internal party democracy highlighting that "European political parties and their members must have a democratic structure and respect the values on which the Union is founded". The EP is also of the opinion that EUPPs "must observe democratic procedures and transparency when selecting their party leaders and candidates for elections and also hold a democratic vote for the adoption of their internal rules and political programme".<sup>118</sup> European Democracy Consulting and REPRESENT shared the same view, suggesting the democratic election of EUPP's top leadership position(s) and EUPP's lead candidates by individual members.<sup>119</sup> According to Parliament, the APPF's set-up should also be strengthened in order to "better monitor all criteria laid down in the Regulation, including respect for Union values and the democratic governance of European political parties".<sup>120</sup>

In the legislative proposal, the Commission has not beefed up the current provisions on internal organisation and governance (art. 4(1) and 4(2)), which have remained almost unaltered, save for the internal rules on political advertising and gender balance (more below) and the requirement for the member parties to display the Europarty's logo on their own website.

The provision on gender balance – the statutes of Europarties should include rules on gender balance (art.4(1)(j)) – is indeed significant, as the issue of gender equality was discussed in previous rounds of reform of the regulation but, ultimately, a reference was only maintained in Recital 6 of Regulation 2018/673, encouraging "[t]he inclusion of information on gender balance in relation to each of the member parties of the European political party".

The impact assessment of the European Commission made a strong case for making the EU funding of political parties conditional on gender equality. As it put it, the underrepresentation of women in European politics stood in stark contrast with art. 23 of the EU Charter on Fundamental Rights. The current situation, with slightly more than 50% of the European population being female, while on average only about 39% of political representatives are women, could no longer be accepted.<sup>121</sup> The proposed change was also in line with the goals of the Commission Gender Equality Strategy (2020-2025), promoting equal opportunities in participation for representative democracy, at all levels.

In order to promote gender equality and push European politics to reflect diversity in European societies more accurately, the new proposed regulation requires Europarties to include rules on gender equality in their statutes. Furthermore, Europarties are asked to provide evidence of gender representation in their national member parties when applying for EU funds. They shall specifically publish, on their websites and in the 12 months preceding the application, information about gender representation among the candidates at the previous EP elections and on the evolution of gender representation among their MEPs (art. 21). Sanctions are introduced for Europarties that fail

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<sup>118</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, 2021/2018(INI), cit., para. 53.

<sup>119</sup> European Democracy Consulting REPRESENT, *Submission to the European Commission and to the European Parliament. Addendum on Reforming Regulation 1141/2014*, cit., para. 8-12.

<sup>120</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, cit., para. 25.

<sup>121</sup> European Commission, *Commission Staff Working Document. Impact Assessment Report*, cit.

to provide them (art. 30).<sup>122</sup> While this is a further administrative burden for Europarties, the new transparency obligations on gender equality could provide an incentive to improve gender balance. Yet, the ultimate decisions on candidate selection for the EP elections remains – pending transnational lists – in the control of the national member parties, and Europarties can only use their 'soft power' to push 'laggards' to improve.

### 3.6 Administration

Finally, there are some changes in the regulation concerning administrative aspects, which have registered a high consensus among Europarties. To start with, the EP expressed strong support, in its evaluation report, for the creation of further categories of revenues – next to EU funding, contributions and donations – to cover all sources of income. Indeed, Europarties have often lamented that the existing regulations did not give proper consideration to all the activities pursued by Europarties and their foundations, which could be further sources of income.<sup>123</sup> The legislative proposal of the Commission takes on board the demands of the EP and stakeholders introducing the 'own resources' category. At the same time, however, it also specifies that these resources cannot amount to more than 5% of the annual budget of the EUPPs/EUPFs (Table 10).

Table 10. Other revenue categories – 'own resources'

<b>Evaluation report</b> <b>2021/2018(INI)</b>	<b>Commission proposal</b> <b>COM(2021) 734 final</b>
36. Supports the creation of further categories of revenue in order to cover all sources of income of political parties and political foundations, rather than just contributions and donations, such as creating a new category of 'other own resources' which includes contributions from joint activities, sales of publications, participation fees for conferences or workshops or other activities directly linked to political action	Art. 2(9): 'own resources' means income generated by own economic activities, such as conference fees and sales of publications;  Art. 23(13): The value of own resources of a European political party or of a European political foundation generated from own economic activities shall not exceed 5% of the annual budget of that European political party or European political foundation. <sup>124</sup>

Another issue on which the EP and all stakeholders were unanimous in demanding a change was on the need to comply with the International Financial Reporting Standards (IFRS). Given that Europarties all need to provide annual financial statements in accordance with the law of the

<sup>122</sup> Europarties are also encouraged to provide information in relation to their member parties' inclusiveness and representation of minorities.

<sup>123</sup> Interviews, November 2021.

<sup>124</sup> The European Commission is of the opinion that «The current Regulation has a very restrictive definition of revenue sources, limited to either contributions or donations, which creates difficulties for European political parties and foundations when trying to categorise and do a proper accounting of autogenerated resources» (p. 7).



member state where they are based in any case, and because IFRS are considered to be more appropriate for companies, in its assessment report the EP underlined that this obligation “represents an unnecessary time-consuming and costly burden” and “adds no value and entails unnecessary costs and time delays”.<sup>125</sup> This was fully taken on board by the Commission, with the legislative proposal allowing the EUPPs/EUPFs to present their annual financial statements only in accordance with the law of the member states where they have their headquarters (cfr. Table 11).

Table 11. Accounting standards

<b>Consolidated Regulation 1141/2014</b>	<b>Evaluation report 2021/2018(INI)</b>	<b>Commission proposal COM(2021) 734 final</b>
Art. 23(1)(a): their annual financial statements and accompanying notes, covering their revenue and expenditure, assets and liabilities at the beginning and at the end of the financial year, in accordance with the law applicable in the Member State in which they have their seat and their annual financial statements on the basis of the international accounting standards	39. Asks for the obligation for European political parties and foundations to submit their annual financial statements on the basis of the International Financial Reporting Standards, in addition to the Generally Accepted Accounting Principles, to be abolished	Art. 26(1)(a): their annual financial statements and accompanying notes, covering their revenue and expenditure, assets and liabilities at the beginning and at the end of the financial year, in accordance with the law applicable in the Member State in which they have their seat;

Finally, academics, civil society organisations<sup>126</sup> and the EP itself called on the APPF and, for the part falling under its competence, DG FINS to make sure that the documents published on their websites are user-friendly, complete and updated. This is now also part of the legislative proposal, with the Commission urging them to make the required information available in a user-friendly, open and machine-readable format (Table 12).

<sup>125</sup> European Parliament, *Resolution on the application of Regulation (EU/Euratom) No 1141/2014*, cit, whereas L and para. 23.

<sup>126</sup> European Democracy Consulting, *Failure of the Authority for European Political Parties and European Political Foundations to abide by its transparency requirements*, 2020, pp. 1-17.

Table 12. Publication of relevant information on the website of the EP and the APPF

<p style="text-align: center;"><b>Evaluation report</b> <b>2021/2018(INI)</b></p>	<p style="text-align: center;"><b>Commission proposal</b> <b>COM(2021) 734 final</b></p>
<p>43. Advocates an increase in the transparency of the financing of European political parties and foundations by creating an obligation for Parliament to publish the annual financial statements it receives in a user-friendly manner;</p>	<p>Art. 36(1): The European Parliament under the authority of its Authorising Officer or under that of the Authority, shall make public the following on a website created for that purpose, in an open, machine- readable format [...]</p>
<p>44. Is of the opinion that the information published by Parliament and the Authority should be presented in open and machine-readable formats in a user-friendly manner;</p>	<p>Art. 55: information considered to be of substantial public interest [...] should be published in a user-friendly, open and machine-readable format.</p>

## 4. CONCLUSIONS AND RECOMMENDATIONS

Europarties have come a long way in the last thirty years. The latest proposal for reform is another important step in a process (cfr. Chapter 1) that, starting with art. 138A of the Treaty of Maastricht, has given them financial autonomy from the political groups in the EP and the national member parties; has allowed them to campaign in the EP elections; has made them capable of selecting *Spitzenkandidaten* (lead-candidates) for the Presidency of the European Commission and has finally provided them with EU legal status. Regulation 2004/2003 – as amended in 2007 – and Regulation 1141/2014 – as amended in 2018 and 2019 – have consolidated relatively strong network organisations of national member parties in Brussels.

Art. 10(1) TEU states that the functioning of the Union shall be based on “representative democracy”, while art. 10(4) sets ambitious goals for Europarties, which are expected to contribute to forming European awareness and expressing the will of EU citizens. Yet, as Chapter 2 has shown, on the basis of recent polls surveying EU public opinion, Europarties still enjoy scant recognition by EU citizens and low visibility in national member countries. Their ‘expressive’ function remains an aspiration, rather than a reality in the current EU political system.

This study has presented and assessed the main reforms incorporated in the legislative proposal of the European Commission of 25 November 2021 in light of the recommendations provided by the EP in its evaluation report on the application of regulation 1141/2014 and by the key stakeholders, as well as in light of the role that the TEU attributes to Europarties. A summary of the key proposed changes is provided in Table 13 below.

The legislative proposal makes several targeted and often important changes to the regulation.<sup>127</sup> The provision to accept membership from parties from CoE countries is not without risks of foreign interference (particularly given the broad membership of the CoE), but it has been loudly requested by the EP and most stakeholders. Also, Europarties will be able to campaign in national referendums on EU matters, thus expanding their role as campaign organisations. The funding system moves one step closer to a regime of public funding: 95% (and 100% in EP election years) of the budget of Europarties will originate from the EU budget. Respect for EU values – as per art. 2 TEU – will apply not only to the Europarties, but also to their national member parties. Finally, the proposal simplifies some administrative procedures (i.e., on annual financial statements) and creates the additional ‘own resources’ revenue category, once again following up on a request from Europarties. Overall, there is a good degree of correspondence between the legislative proposal of the Commission and the recommendations made by the EP and key stakeholders.

In a few cases, the Commission could have made bolder proposals. For instance, the procedure to trigger the value compliance mechanism is very complex – as, incidentally, the Commission itself notes in its impact assessment report – as it involves several institutional actors with different competences. In addition, it does not give the APPF the power to start the procedure *ex officio*, and the extension of the value compliance requirement to national member parties (in itself to be

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<sup>127</sup> As Vice-President of the European Commission Věra Jourová told the members of the AFCO committee, replying to the criticisms levelled against aspects of the legislative proposal: “in creating the rules for the European political parties and foundations, and creating is not the right word, we were upgrading the current rules and I was from the beginning very clear that we are not going to come with a revolutionary proposal that changes a lot of things in a radical way, but rather the proposal which will fill in the loopholes and decrease some of the administrative burdens [...] not cosmetic, important changes, evolutionary but not revolutionary” (9 December 2021).

welcomed) could make it even more difficult to trigger it, as the sanctioning system has not been adapted. The new provisions on gender require Europarty statutes to include norms on gender balance and add a transparency requirement for Europarties to publish information on gender representation in member parties. The latter is accompanied by a sanctioning mechanism. However, even if only in the recitals, the proposal could have referred to the need to ensure gender balance in the composition of transnational lists, in case they are eventually introduced by the reformed European Electoral Act. Furthermore, stronger measures could have been introduced. For instance, Europarties could be prescribed to use a certain share of the funds that they receive from the EU for activities aiming to strengthen gender equality and the political participation of women. Also, financial incentives could be provided for the more virtuous Europarties, whose members do better in terms of gender balance (e.g., in the composition of the electoral lists).

Significantly, the legislative proposal has not introduced more radical changes on individual membership and internal party democracy. There are good normative reasons not to be prescriptive on internal party organisation – this is what the Venice Commission also recommends – and Europarties themselves, given the current regulatory framework, are absolutely free to recognise and empower individual (citizen rather than elected) members. Yet, the regulation could provide incentives to push them to do more in this regard. Individual (mass) membership, with at least some policy making powers, is currently the exception rather than the rule for Europarties. Strengthening individual membership – for instance, by giving financial rewards to the Europarties implementing it – would potentially help better connect Europarties with the EU citizens.

This is particularly important because the public funding regime ties Europarties even more closely to Brussels and their MEPs (given the seat-based distribution key for the EU funds). The trend towards increasing the share of public funding has been clear – EU funding has progressively moved from 75% to 95% of the Europarty budgets, 100% in EP election years – and, while this is a positive development in terms of financial stability (Europarties, and not only the smallest ones, have warned about difficulties in getting the required share of co-funding), the risk is that Europarties become more introverted organisations, further lessening their tenuous direct links with civil society and member states.

The proposal for a new regulation did not push Europarties to become political alliances of parties *and citizens*. However, particularly if other institutional changes, such as transnational lists, are implemented ahead of the 2024 EP elections, the regulation may need to take them further into consideration.

Table 13. Summary of the key proposed changes to Regulation 1141/2014

<b>ISSUES</b>	<b>PROPOSED CHANGES</b>	<b>COMMENTS</b>
Individual Membership	Individual membership not incentivised	The current regulation allows Europarties to introduce/strengthen it
Membership from parties based in non-EU countries	Allowing membership from CoE countries, with some financial constraints	This provision responds to the strong plea made by the Europarties and could be important for the pan-European role that they play, but it makes them more vulnerable to foreign interference
Indirect funding of national parties	Europarties to campaign in national referendums on EU issues	This change further expands the role of the Europarties as campaign organisations
Visibility of the Europarties at the member state level	Better specification of the criteria for the 'visibility' of the EUPP logo in the national party website	This aspect has attracted much attention, but it only affects one element of party communication
EU Funding	The quota of EU funds moves to 95% of the budget of Europarties; 100% in EP election years	While this change addresses a request made by Europarties, there is a risk of making them more 'introverted' organisations
Distribution key	The proportion between the lump sum (10%) and the seat-based distribution (90%) has not been altered	The proposal to introduce a vote-based system was controversial within the EP and with stakeholders
Foreign funding	More transparency for donations (>EUR 3,000) and control of the APPF	The issue of loans could be addressed more directly
Respect of EU values	The respect of EU values also applies to the national member parties and not only to the Europarty organisations	The procedure to verify compliance remains complex and not easy to implement; the sanctioning provision (i.e., deregistration) lacks flexibility
Internal party democracy	The proposal does not reform the regulation	Basic provisions on democratic internal decision making could be considered

Gender equality	New transparency obligations on gender equality accompanied by sanctions	This is a 'soft' instrument regarding transparency and more compelling measures could be introduced
Administration	Creation of 'own resource' category of revenues; abolition of IFRS and improved transparency on the EP and the APPF websites	Bureaucratic simplification has been strongly demanded by all stakeholders

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## ANNEXES

Table A. Contributions from parties from EU/non-EU member countries

<b>Europarty</b>	<b>Contributions (€ - total)</b>	<b>EU / non EU members</b>
EPP	1.692.121	Membership fees (+) special campaign contribution (EU countries): 1.627.430 Participation fees (*non EU countries): 64.691
PES	1.162.045	Membership fees: 857.812 Associate members and observers: 14.223 Additional contributions: 290.000
ALDE	421.758	From inside the EU: 363.779 From outside the EU: 57.979**
EDP	88.850	Membership fees (EU) : 88.850
EGP	322.812	Membership fees (EU): 310.585 Supporter fees: 12.227
PEL	298.022	From 7 EU countries: 281.500 From others: 16.522
ECRP	487.219,92	Primary affiliation fees: 342.879,50 <ul style="list-style-type: none"> <li>- From Middle-East Asia: 2.500</li> <li>- From Southern America: 2.500</li> </ul> Participation fees: 122.340,42 <ul style="list-style-type: none"> <li>- From Asia: 1.785</li> <li>- From Border East West Asia 645</li> <li>- From Middle-East Asia 520</li> </ul> Sponsorship fees: 22.000
EFA	114.825	Membership fees from Europe : 114.825
ECPRM	36.960	From 4 EU countries: 33.352

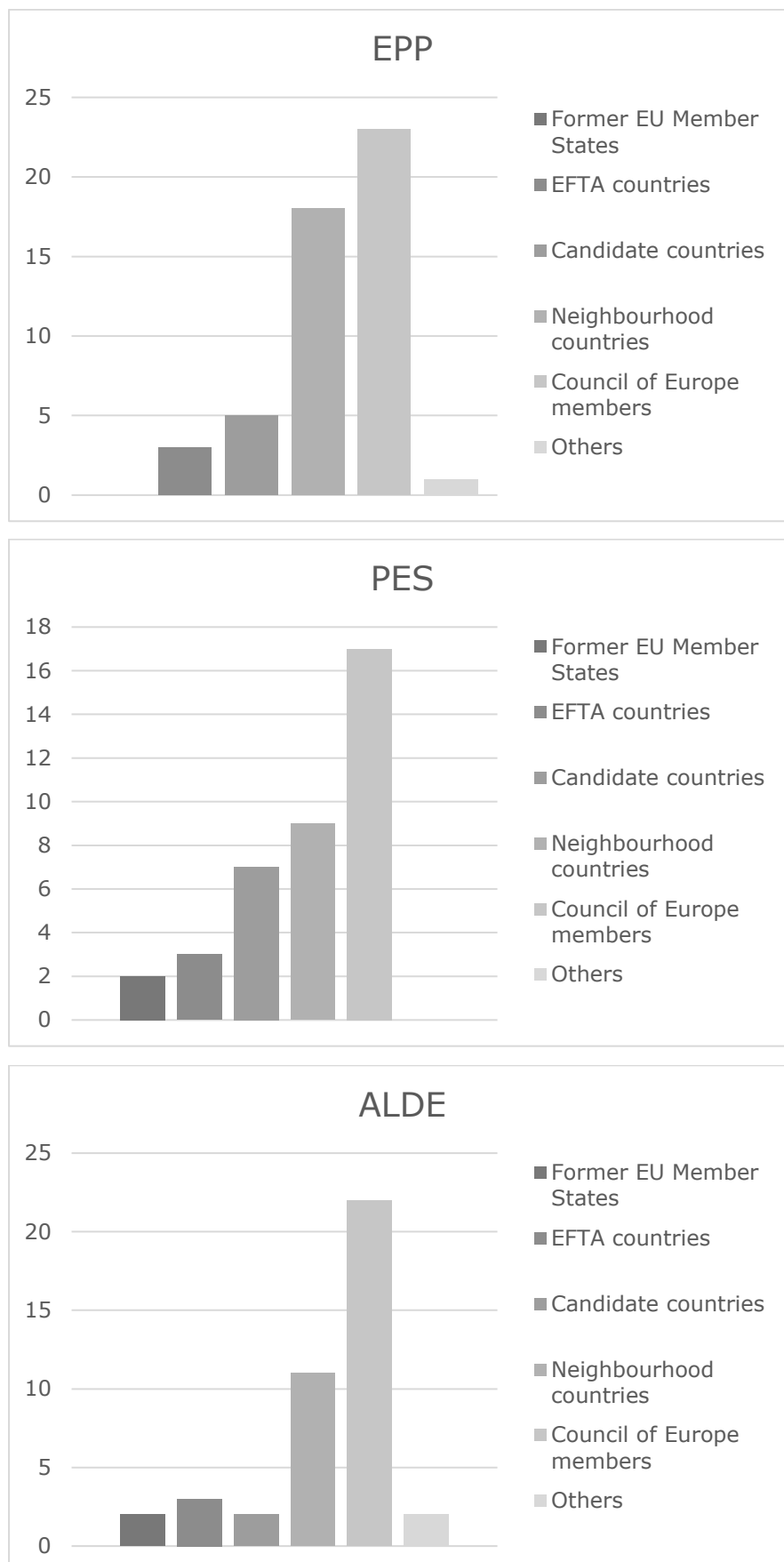
		From others:3.608
ID	114.000	From parties: 109.500 From associate members: 4.500

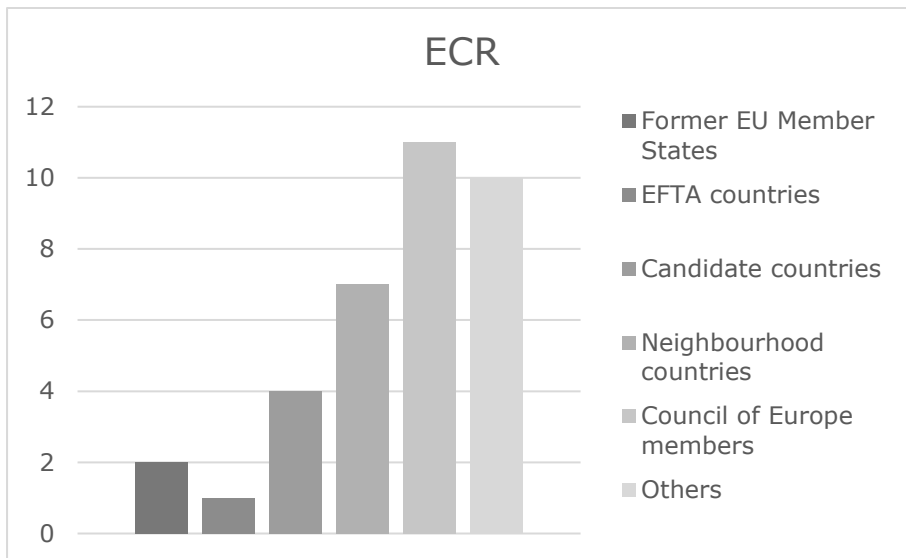
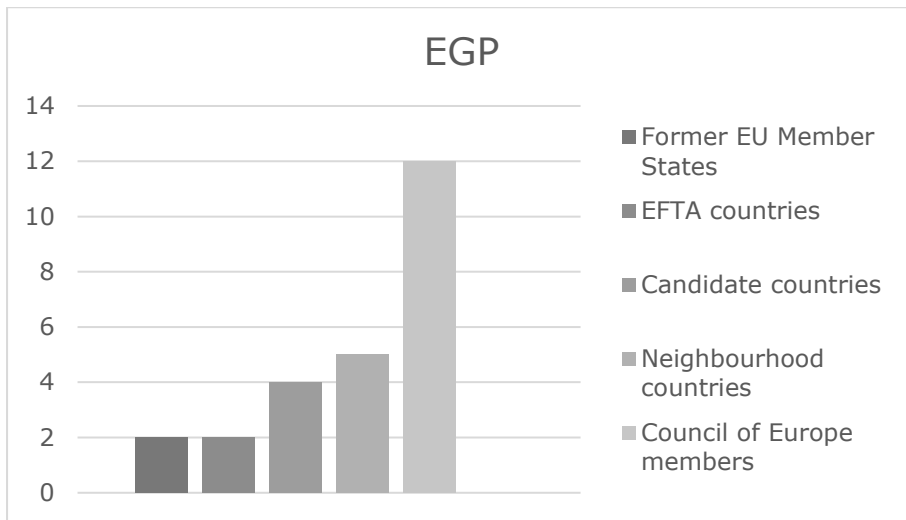
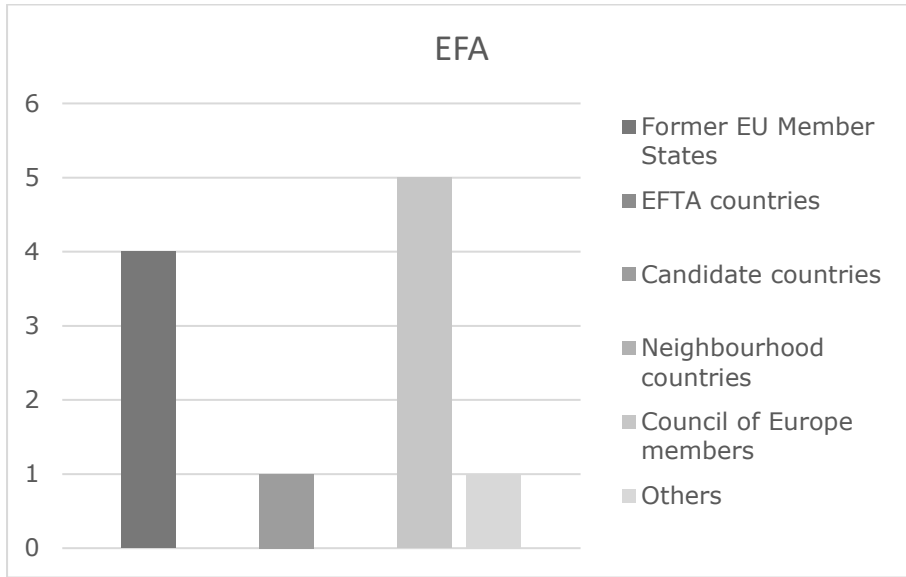
Notes: contributions related to the financial year 2019 and retrieved from the independent external audits published by the EP: <https://www.europarl.europa.eu/contracts-and-grants/en/political-parties-and-foundations/audit-reports-and-donations>

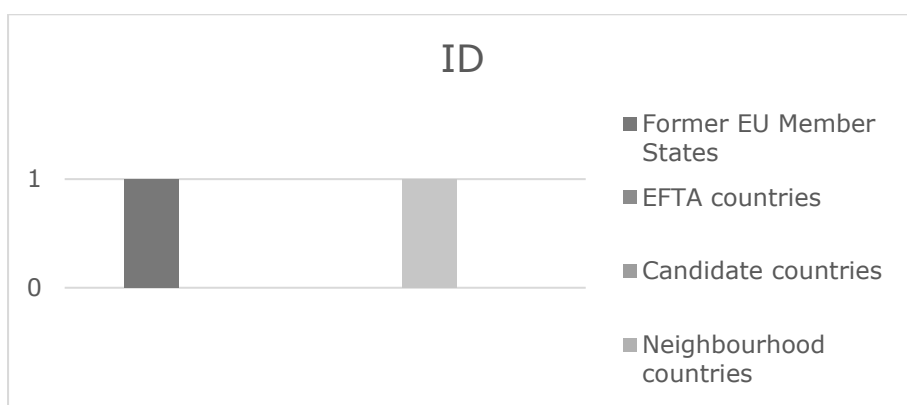
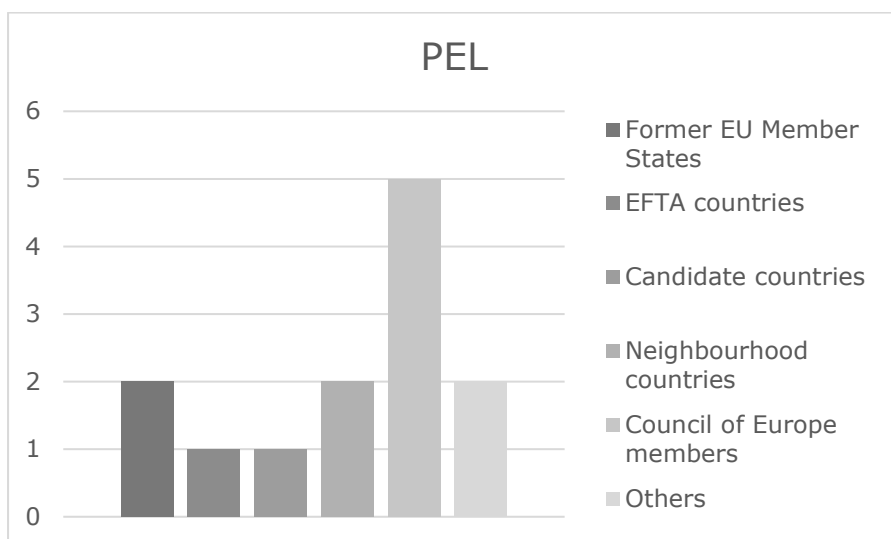
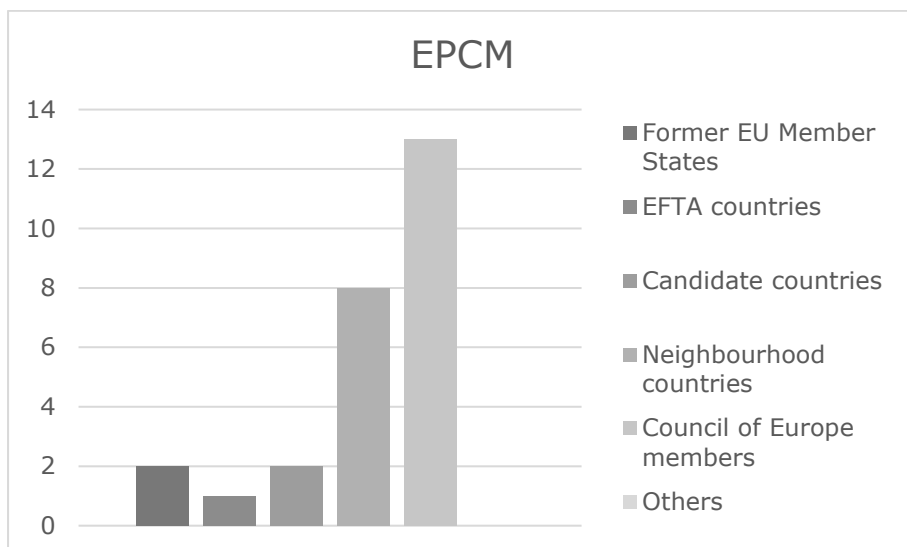
\*Section 'Revenue from contracts with customers': EPP, pp. 20, 26, 27 ("participation fees"); PES, pp. 21, 28; ALDE, pp. 22-23, 28; EDP, pp. 20-21, 26; EGP, 21-22, 28; PEL, pp. 19, 24; ECRP, pp. 20-21, 27; EFA, pp. 21-22, 27; ECPRM pp. 19-20, 25; ID pp. 17, 23.

\*\*It does not include contributions from individual members (amounting to €28.298) Cfr. p. 23, see <https://d3n8a8pro7vhmx.cloudfront.net/aldeparty/pages/1473/attachments/original/1630589132/2019.pdf?1630589132>

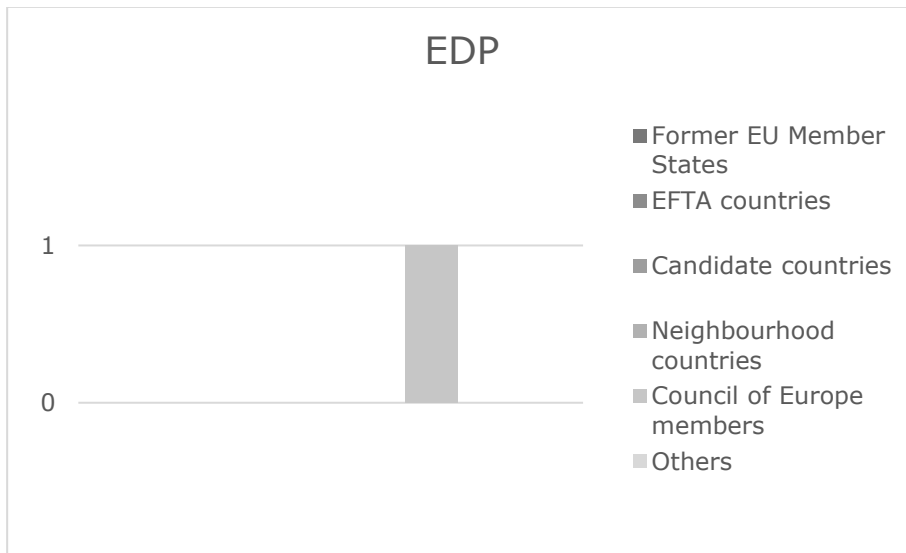
FIGURE A. Europarty membership from non-EU countries











Source: elaboration from European Commission, *Commission Staff Working Document. Impact Assessment Report*, 25 November 2021, pp. 81-85 (Annex VI).

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This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, provides an in-depth analysis of the key proposed changes to Regulation 1141/2014 on the statute and funding of European political parties and foundations. It assesses the extent to which the reformed regulation strengthens, as per art. 10(4) TEU, the capacity of Europarties to contribute to forming a European political awareness and expressing the will of EU citizens.

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