

# Towards a more transparent and coherent party finance system across Europe

The theme of Party Finance is key to determine the transparency of a political system. As many cases in the past have demonstrated, party finance can serve as an important source of illegitimate influence over political actors through donations and contributions by individual members as well as larger interest groups or firms.

Only since 2003 European Parties are granted a public subsidy coming from the EU budget. To design the EU party finance system, great inspiration was taken by national regulations. The first regulation was reformed in 2007 with the aim of ensuring a greater institutionalization of parties within the EU political system. In 2014 a new regulation was approved, introducing substantial reforms such as the establishment of an 'Authority for European political parties and foundations' in charge of "registering, controlling and imposing sanctions on European political parties and European political foundations". Moreover, this regulation introduces stricter requirements concerning party funding at EU level. Nonetheless, this piece of legislation still leaves considerable space to national legislation and limits itself to the requirement of some basic features of clarity and transparency.

This policy paper looks at whether leaving some room for national legislation could actually lead to a risk of non-transparent

funding for EU political parties. If, in fact, EU parties were indirectly funded through practices which lack satisfactory levels of disclosure and transparency, this could have potential repercussions over the transparency discipline of EU party funding as a whole.

The new regulation builds on the European Parliament evaluation report, which stated the need to reform certain areas of the former regulation. The report followed the adoption of a report by the Secretary General of the European Parliament on party funding at EU level. The EP evaluation report emphasizes the need for the following reforms: Firstly they stated the need to provide parties with a legal status as a symbolic way to reinvigorate their status within the European Political system. European political parties should have legal personality to overcome the gap between fiscal treatment governing European political parties and European Institutions. A uniform legal status is also necessary in order to apply organizational and fiscal convergence and shall avoid 'double standards' in the member states related to the status of European parties and national parties. In order to register as a party under EU law, a party has to have legal personality under national law of the member states.

New in **Regulation No 1141/2014**:

- Introduction of European legal personality for European political parties
- Introduction of the registry
- Introduction of 'contributions' as a new method of financing.
- The creation of a registry for European political parties as well as the possibility to remove a party from the registry in case they do not respect European values as stated in Article 2 TEU.
- A separation between 'European political party' and a 'European political foundation'
- Defines 'donations' as any cash offering, offering in kind, the provision below market value of any goods, services or works and any other transactions which constitutes an economic advantage for the European political party.
- Threshold for donations was raised from 12.000€ to 18.000€.

Secondly the report pointed out the need for better enforcement of disclosure and transparency rules. This includes that funds should be approved by means of an award decision with the procedure being streamlined and a guarantee for transparency in ex post checks. According to the opinion of the Committee on legal affairs this should have a positive spill-over effect on the conduct and the internal rules for national parties. Thirdly, changes should be made to link the funding regime applicable to the political parties and their political foundations to request stricter conditions for access to funding.

(it is important because much of the campaign for EU elections is done by national parties, which are financed through national sources)

Most funding for EU Parliamentary elections comes from EU member states. As a result it is important to ensure transparency not only

for European parties but also for their national constituencies.

In the following two sections this paper will analyze the national laws of the Netherlands and Spain regarding party financing. A last concluding section issues policy recommendations to improve the transparency of the system as a whole.

## THE CASE OF THE NETHERLANDS

The case of the Netherlands is of interest to the subject principally because it embodies an interesting dilemma whereby, while being traditionally famous for its openness and transparency, it has been criticized by the Council of Europe for not providing stringent enough party finance discipline to its political parties. The *Wet Financiering Politieke Partijen* of 2014 has partially taken up the recommendations of the Council of

Europe, but still presents some problematic aspects, which are worth being highlighted. As a first element, Party Funding in the Netherlands is not conditional to the fulfilling of any specific values, given the respect for the constitutional values common to all organizations. This has provided that, in order to suspend funding to a political party, general constitutional national and international provisions have to be used in the absence of specific requirement tailored around the delicate activity of parties within the national political context.

Secondly, and more specifically, the Dutch party funding scheme is less strict with respect to the European one, on a number of points.

For what concerns donations, the law does not foresee any maximum threshold for donations coming from the same legal person (possibly a firm as well), although disclosure of personal data of the donor is required for sums above 4.500€.

Another problematic point is that parties are required to present an annual audited report of their expenses to the Ministry for Internal Affairs, but that this does not cover (1) campaign expenses and (2) expenses at local level. More specifically the new 2014 law still lacks the obligation for political parties to report on the expenditure of private and public funds spent on political campaigning. This represents an important issue, since unequal conditions of voting may emerge as some parties may have access to influence drivers which are unknown to

public authorities and to the wider public in general. For what concerns point (2), the absence of regulations at local level has been an ever existing controversy in Dutch party funding discussions. This is partially due to the fact that local implementation requires the active collaboration of local authorities. Nonetheless, the absence of reporting requirements for local branches inevitably spoils transparency since 'uneasy' expenditures may simply be delegated to local branches, thereby escaping national oversight.

A third important element of the Dutch party funding scheme concerns the allocation of funding to national parties. This allocation is based on multiple criteria, the most relevant being the number of registered members of the party. Whereas the practice of linking funding to membership can be regarded as positive to the overall engagement of parties with the general public, this criterion is quite unique among European party funding regimes. The relevant consequence for the case of this paper is that with parties being funded not (exclusively) according to their national share of seats, this could lead to different balances of power between national parties, with parties with wider membership such as the Labour Party receiving more funding than the Liberal party, with the latter's parliamentary group being much larger than the former.

Finally, it is worth looking at the way public authorities oversee party funding at national

level. Differently from the new EU Regulation, oversight in the Netherlands is delegated to the Ministry of Internal Affairs, which is supported by a Commission of experts designated by the Minister Itself, which retains the right to a final decision in case of disagreement with the Commission. The Dutch oversight system seems to be more vulnerable to political influence, since political and administrative actors such as the Ministry maintain a first-rank role in controlling party expenses. Contrary to the EU case, independent control is not foreseen, bringing about the risk of non-transparent practices being carried out within the discretionary loophole left to the Ministry. The latter, in fact, is in charge of determining the amount of sanctions to be assigned to an uncompliant party, with a mere threshold of 25.000€ per sanction provided by the legislation. This adds additional discretion to the activities of the Ministry and rises additional risks for the transparency of the system as a whole.

On the whole, the Dutch Party Finance system, which has been reformed in 2014, is less stringent than the one contained in Regulation 1141/2014. This is true especially if we look at the limits to private funding and the phase of oversight and scrutiny of expenses, which is not strict enough from the perspective of required information and delegates control entirely to a political body.

## THE CASE OF SPAIN

The implementation of the principle of public party funding in Spain started with the new democratic regime in Spain in order to subsidize electoral campaigns and the activities of political parties. Later, in 1987, several restrictions for private funding were adopted, although anonymous private donations were permitted until 2007. All minor reforms since then have attempted to regulate public funding on the grounds of political equality and the containment of public subsidies. The anti-corruption argument only appeared as a main concern during the last reform in 2007, also given the fact the country started facing a serious economic crisis. The legal framework of party finance in Spain can be separated in 3 periods:

- Organic Law 1985 on the General Election Regime
- Organic Law 2007 on Political Parties Funding
- Amendments of 2012 and 2015

The 2015 amendment resulted to a complete ban on private donations to political parties, making public subsidies their only funding source. The need for amending the regulation derived from the 2013 scandal when the former treasurer for the ruling People's Party was linked to corrupted activities and was sentenced to jail without bail revelations over cash bonus payments to national leaders in the past. In the light of the

economic crisis, this scandal raised concerns to the citizens over the use of public funds and created the need to enhance monitoring.

The Spanish system can give us some important lessons about party funding systems that should be taken into consideration in a national and European level in order to enhance transparency across Europe. From the Spanish funding system we can learn the following lessons:

➤ *Less is more*

Spain is one of the countries with the most extensive regulation of incomes and expenditures, together with substantial public subsidization. Nevertheless, extensive regulation doesn't necessarily result to more effective and efficient system. Taking the case of the complete ban of donations, we see that more regulation is not necessarily the answer. Although a lack of rules could lead to increased political corruption, according to the Corruption Perception Index of Transparency International, the Northern European countries are among the least corrupt in the world, despite the fact that anyone or any company can donate.

➤ *Focus on the main problem*

In an effort to fight party corruption stemming from interest-oriented money, the Spanish system seems to have created a new problem, state dependence. This dependence to the state funding can be endogenous weakness of parties in their

function as the representative agents of civil society.

Researches show that 80-90 per cent of party funding for the main political parties – the People's Party (PP), Socialist Party (PSOE), and United Left (IU) – comes from public sources. At the same time the public funding seems to be allocated without discrimination related to ideology. On the other hand, private funding is extremely limited, as are fees collected from party members.

Between 1987 and 2008, the total amount of state allocations increased by almost 60 per cent. Significantly, every new change in party funding regulation geared toward setting limits on private donations has resulted in more public resources for parties.

➤ *Court of Auditors*

Spanish regulations on party funding explicitly exclude local funding from the scope of the Court of Auditors. This is one of the main concerns expressed by [GRECO](#), the Council of Europe's anti-corruption monitoring body, in its 2009 and 2013 reports. Although the 2007 Act intended to improve this situation by bringing regional funding under the control of the Spanish Court of Auditors, local incomes remained off limits. Even party central offices do not know exactly how much money they are collecting at the local level.

In a nutshell, from the Spanish system we can conclude that overregulation sometimes can be counterproductive if we don't address the actual routes of the problem.

Another important point is that we cannot consider a system transparent if transparency and supervision is not ensured in every level that comprises the system. Therefore, transparency across European has to be multidimensional and pragmatic.

competences in the area of party financing and, more broadly, mutual legal assistance and cooperation in criminal matters, would be beneficial in ensuring a more transparent and coherent party funding system both at EU and national level.

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## CONCLUSIONS & POLICY RECOMMENDATIONS

Considering the case studies above, the following recommendations are forwarded:

- MORE COOPERATION ON NATIONAL PARTY FUNDING LEGISLATION. Better cooperation and sharing of best practices on national party finance regulations should be guaranteed through the use of EU soft law, for instance through the Open Method of Coordination. This would guarantee more harmonization between national legislation towards more transparency and coherence.
- MORE COOPERATION ON NATIONAL PARTY FUNDING IMPLEMENTATION. Sharing of best practices on implementation of scrutiny and oversight through workshops and trainings of national personnel. Such cooperation should be coordinated by the EU Authority for European Political Parties and Foundations along with national competent authorities.
- LONG TERM PERSPECTIVE. Looking at future developments, transferring more