



BRIDGING THE TRANSPARENCY GAP

of Euro-party financing

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INTRODUCTION

As the 2019 European Parliament elections draw closer, the statute of EU-level political parties (Euro parties) is once again up in the air. In September the European Commission presented a [proposal](#) for reforming the 2014 [regulation](#) on the statute and funding of European political parties and foundations, only nine months after it started to apply. After repeated calls by the European Parliament (EP) to address a series of weaknesses¹, the Commission's intention is now "to close the loopholes, improve transparency, to ensure the appropriate allocation and expenditure of limited resources from the EU budget, and thereby to strengthen the genuine electoral representation of European citizens by European political parties"².

However, the Commission proposal fails to improve the transparency of Euro party financing. While being a step in the right direction, the reform is a missed opportunity, especially when it comes to the issue of party funding. Little has been done to increase donor transparency or upgrade the control mechanisms holding Euro parties accountable.

As the file is currently going through co-decision, this policy brief highlights some of the remaining problems and suggests areas for change, drawing on best practice examples from Member States' national legislation. The recommendations presented in this document are the result of a systematic analysis of the current proposal of the European Commission and of the [amendments](#) voted in committee by the European Parliament.

STATE OF PLAY

The 2014 Regulation (applying from 1 January 2017) radically changed the 2003 statute on European political parties and foundations by granting them legal status, and by creating the Authority for European Political Parties and European Political Foundations to control, register and, if needed, sanction parties and foundations.

Yet, already in June 2017, the Parliament issued a [resolution](#) asking the Commission to address loopholes in the legislation. Areas of concern include the level of co-financing needed to receive funding from the EU budget, and the issue of multi-party membership of MEPs. In recent years there have been several cases of dubious use of funding or inadequate reporting.³ Moreover, the Court of Auditors

¹ European Parliament resolution of 15 June 2017 on the funding of political parties and political foundations at European level (2017/2733(RSP))

² European Commission, COM(2017) 481 final, Brussels, 13 September 2017, p. 4

³ R. Kergueno, "Fraud and boats: funding European political parties", *Transparency International EU*, 9 November 2017, <http://transparency.eu/boatfraud/>; "N. Nielsen, "Anti-EU parties face funding cuts", *EU Observer*, 15 September 2017, <https://euobserver.com/institutional/139036>

has highlighted problems with regards to financial capacity in 8 of 28 annual reports from parties and foundations in 2015.⁴ Other issues flagged by the Court in 2015 and 2016 were “weaknesses in procurement procedures and [...] ineligible expenditure claims”.⁵

The proposal by the Commission contains a series of improvements to the party statute. To solve multiparty membership, only national parties, and no longer individuals, will be allowed to sponsor the creation of Euro parties. The proportionality of funding will be improved by increasing the share of EU financing which is distributed in proportion to the parties’ representation in Parliament, with only 5 % of the funding being shared equally between parties regardless of voter support. (Note, however, that the Parliament’s AFCO Committee [report](#), adopted in November, calls for increasing this share to 10%). In addition, the Authority will be given the power to de-register parties that no longer fulfil the registration criteria, and in case of infringements, the authorising officer of the European Parliament should be able to recover funding.

The Commission proposal also tackles the issue of the minimum co-financing threshold to receive EU funding. The current threshold (15%) has led to dubious practices of over-reliance on hard to measure in-kind donations, loans and circular financial flows.⁶ To dissuade fraudulent practices, the Commission has proposed lowering the threshold to 10% for parties and 5% for foundations. The AFCO report concurs with the Commission on this issue.

Finally, the Commission proposes that every national party that is member of a Euro party receiving EU funding must publish on its website the programme and the logo of its European party, as well as provide information on gender representation. These provisions,

⁴ European Commission (2017), p. 7

⁵ European Court of Auditors (2017), *Opinion No 5*, p. 3,

Party Financing

Best Case Example: France

In a case study, the OECD comes to the conclusion that “if we benchmark French regulations regarding transparency, supervision and sanctions, we have to admit that these rules are honourable”.¹ The European Public Accountability Mechanism regularly measures different regulatory frameworks on party financing throughout Europe. In its last evaluation, the French system was revealed to perform above average in every category of analysis (public funding, private funding, reporting and enforcement) and can thus be identified as a best-case example for Europe.¹

Party financing in France is regulated via two laws: The Law on Financial Transparency in Political Life¹ and the Electoral Code¹. Together, they form the framework for political financing in France and are regularly updated. Only recently, French President Emmanuel Macron presented a proposal for a law on public morality that touches upon financial probity in public life and is intended to complement the two laws mentioned above, focusing in particular on a code of conduct for all members of parliament (e.g. including a mandatory declaration of personal interest)¹.

Political parties in France benefit from public funding. The exact amount of financial contributions is determined in proportional relation to the share of votes in the previous election. Moreover, access to media is subsidised for political campaign purposes and tax relief is granted in the form of an exemption from stamp duty. Private funding of political parties is highly restricted in France.

The law prohibits donations from foreign legal persons, corporations, trade unions and anonymous sources. In addition, the total amount of private contributions that political parties can legally receive is also limited (7,500€ per donor per year for a political party).

Political parties in France are further required to report annually and publicly on their account and the identity of their donors. These reports must comprise detailed accounts of all organisations and sub-entities that belong to the party and are checked and overseen by the National Commission for Campaign Accounts and Political Funding, an independent authority that can impose sanctions on parties that do not comply with the provisions of the law. These sanctions range from fines, to deregistration of the party and imprisonment. Consequently, the reporting system in France is highly developed and can be enforced effectively.

which would increase transparency and voter information about party membership, have been weakened by the AFCO report.

https://www.eca.europa.eu/Lists/ECADocuments/OP17_05/OP17_05_EN.pdf

⁶ European Court of Auditors (2017), *loc. cit.*, pp. 6-7

PARTY FUNDING, TRANSPARENCY, AND ANTI FRAUD – a long way left to go

While a step in the right in the direction, the proposal of the Commission merely scratches the surface of the reforms needed. Lowering the threshold for co-financing to dissuade fraudulent practices and requiring more information on websites are not enough to ensure transparency of Euro party financing. Moreover, the EP's attempt to weaken transparency provisions is concerning. This paper highlights some of the possible improvements, regarding donor information, donation regulation, co-financing problems and control mechanisms.

1. Expedite publication of donor information

The Commission proposal does little to improve transparency of donations. With the current regulation, a list of donors and their contributions (if above 1500€ per year) must be provided to the Authority and be made public together with the parties' annual financial statements. Donor information is to be published and reported more frequently (once a week) when donations are made close to elections.

The prohibition against anonymous donations, which are not acceptable if we want to achieve real transparency, and the relatively low threshold of 1500€ is in line with recommendations made by the Council of Europe's Group of States against Corruption (GRECO) in a 2011 [report](#).⁷ However, as Transparency International has previously pointed out, in practice there is a lack of transparency regarding both the sources of donations and subsequent expenditures by Euro parties, especially during campaigns. There is often a delay of the annual financial reports containing the list of donors and expenditure of up to two years, leaving voters woefully uninformed.⁸

The failure of the Commission proposal to address these issues in the current regulation and tighten transparency requirements is particularly surprising considering the wealth of best practice examples from national party statutes, as mapped out by GRECO.

Notably, Finland's Act on Political Parties creates a responsibility to file an updated disclosure for political parties, party associations and entities affiliated with a political party. This disclosure must be amended whenever contributions by the same donor exceeds 1500€. These disclosures are filed electronically no later than on the 15th day of the month following the month when the donation was made.⁹

The same, if not an even stricter, obligation should be created for Euro parties. Notably, the regulation ought to scrap the distinction between the stricter reporting requirements during elections and those for the rest of the Parliamentary term. Citizens and civil society organisations should get access in real time to information about party funding to hold them constantly accountable, not just during elections. The EP should therefore, under the power of the Authority and on weekly basis, publish on a dedicated website the list of Euro party donors and their corresponding donations throughout its term in office.

Finally, while donations are currently supposed to be controlled weekly during campaigns, Euro parties have 30 days to return an illegal donation. Since donations may have huge and irreversible impacts during campaigns, it is important to reduce this lag between the reception of an illegal donation and its return. Consequently, we recommend aligning the weekly deadline for return with that of the monitoring frequency of the Authority. Outside electoral periods, the two temporalities should also be aligned. Therefore, we call for weekly

⁷ Y-M Doublet (2011), *Fighting Corruption: Political Funding – Thematic Review of GRECO's Third Evaluation Round*, Council of Europe, <https://rm.coe.int/16806cbff2>, pp. 9-12

⁸ Kergueno (2017), *op. cit.*

⁹ GRECO/Council of Europe, *Third Evaluation Round: Second Compliance Report on Finland*, 6 December 2011, <https://rm.coe.int/16806c5d0e>, p. 7

controls by the Authority, weekly publication of donor information and a weekly deadline for return of illegal donations.

2. Extend the scope of donation regulation

The Commission has failed to consider the Court of Auditors' [repeated calls](#) to address the gap in regulation regarding the sources of donations. There are no rules regarding donations from natural or legal persons who provide goods and services for EU institutions or for other public authorities involved in the management of EU funds. Neither are there any regulation of donations to entities related directly or indirectly to euro parties or foundations, like research institutes or publishing houses. Donations from private entities such as NGOs in third countries or international organisations also lack regulations, since the statute only forbids donations from public authorities in non-member countries. Donations from public authorities of Member States are not prohibited, but remains underregulated.¹⁰

These gaps in regulation threaten the transparency of Euro party financing. The lack of rules regarding donations to party-related entities is especially problematic. A potentially useful best-practice example for the Commission to rely on is France (see text box), where parties' financial records must include both the party accounts and the accounts of all organisations or businesses in which the party holds half of the share capital or half of the seats on the management board or exercises predominant decision-making or managerial authority.¹¹

3. Regulate loans and in-kind donations to address co-financing problems

By focusing solely on the threshold for co-financing, the Commission fails to consider the Court of Auditors' [criticism](#) regarding

loans.¹² For Euro parties, the high co-financing threshold has provided incentives for parties to take out loans to be able to receive EU funding. Yet, neither the old regulation nor the new proposal contains any rules concerning the sources, terms, or conditions of such loans. This poses a "risk of rules on donations and contributions being circumvented by receiving loans at particularly advantageous conditions".¹³

To fill this gap, taking a leaf from the UK's book is advised. Parties in the UK are obliged to declare their loans to the Electoral Commission every quarter, weekly during elections.¹⁴

Finally, the new proposal contains no additional clarification to deal with the problem of how to adequately measure and report in-kind donations. Even though they are included in the strict definition of "donations" and the lower co-financing threshold is likely to decrease their importance, in-kind donations still constitute an obscure section of Euro party financing.

4. Upgrade the control mechanisms

Make the Authority more transparent

The [current proposal](#) further reinforces the power of the Authority with regards to the control of Euro party funding. The Authority will be able to recover EU funding and to identify a natural person, part of the management or supervisory body of the party, as responsible for infringements. However, the Authority and other control bodies remain non-transparent.

The financial control – in terms of monitoring, audit and sanctions – exerted by the Authority relies mostly on information submitted by the parties and external audit reports. These reports are produced by "independent external bodies or experts selected, mandated and paid by the European Parliament".¹⁵ These independent bodies inform the Authority of

¹⁰ European Court of Auditors (2017), *loc. cit.*, p. 6; European Court of Auditors (2013), *Opinion No 1*, https://www.eca.europa.eu/Lists/ECADocuments/OP13_01/OP13_01_EN.PDF, para. 5-6,

¹¹ Doublet (2011), *loc. cit.*, p. 23

¹² European Court of Auditors (2017), *loc. cit.*; (2013), para. 10.

¹³ European Court of Auditors (2017), *loc. cit.*, p. 7.
¹⁴ (Doublet), 2011, *loc. cit.*, pp. 16-17.

¹⁵ European Commission (2017), *loc. cit.*, p. 18.

“any suspected illegal activity, fraud or corruption which may harm the financial interest of the Union.”¹⁶ If so, the Authority may impose financial sanctions or deregistration of the party.

The Authority, and these “independent external bodies” should be transparent. Yet the regulation does not provide transparency guarantees regarding the selection process of the experts in charge of auditing the parties. The actors taking part in these groups are not defined in the current regulation, neither in the Commission’s proposal, and the secret selection process poses a risk as to the composition of these expert groups.

Therefore, the regulation needs to be amended make control process more transparent. The composition of expert groups and their appointment procedure should be specified as much as possible in the regulation, as it has

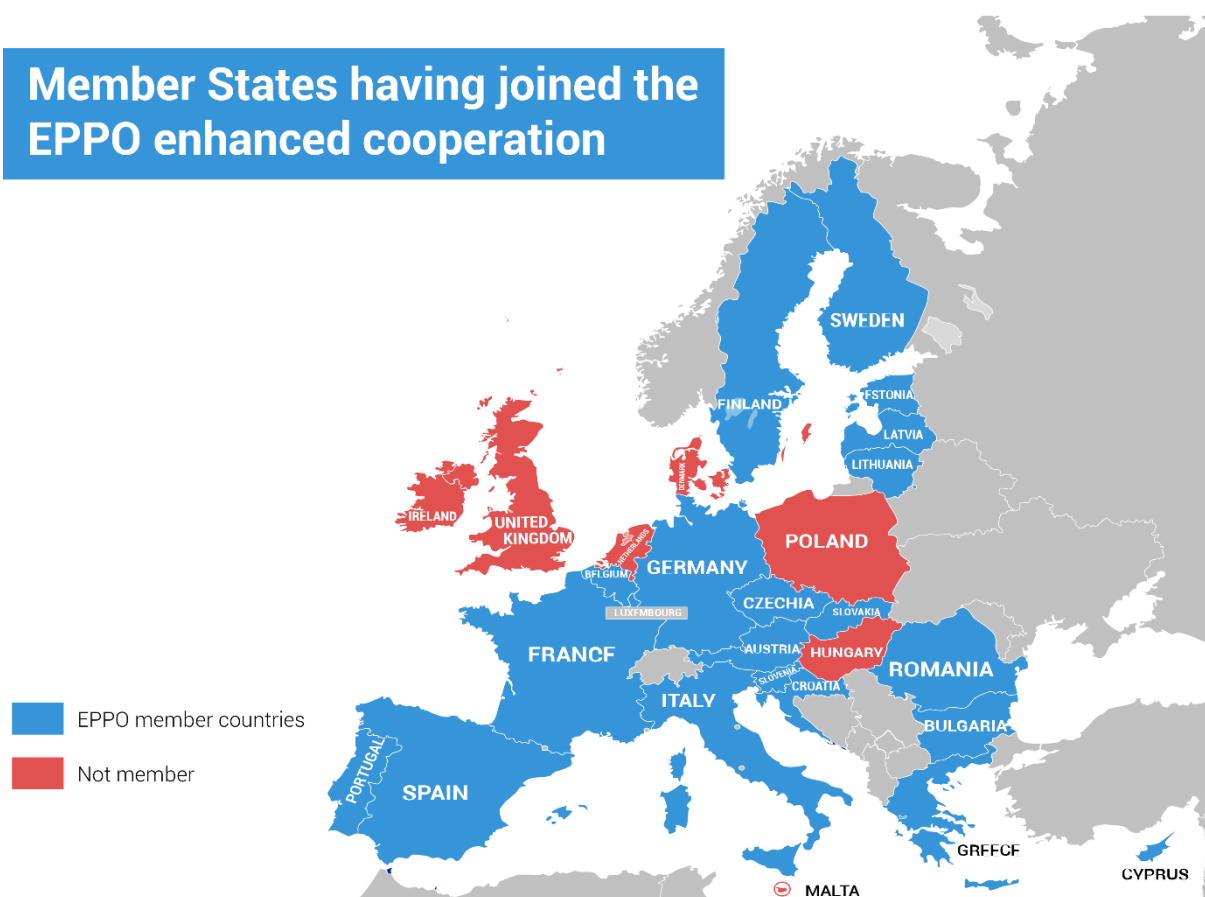
verifying the compliance of parties with the conditions of registration.¹⁷

The role of the EPPO in the investigations

One of the EP amendments include a call for the newly created European Public Prosecutor’s Office (EPPO) to have an important role in investigating alleged criminal offenses related to the funding of Euro parties and foundations. In other words, the EPPO should be given the task to investigate, prosecute and judge those responsible for offenses against the Union’s financial interests. The system would be based on a shared competence between the EPPO and national authorities; both parts should be supportive and inform each other.

However, the EPPO is an enhanced cooperation which does not involve some of EU Member States. Problems could occur when

Member States having joined the EPPO enhanced cooperation



been done regarding the Committee of Independent Eminent Persons in charge of

parties are legally located in a country not member of the enhanced cooperation. in relation to those countries that do not

¹⁶ *Ibidem*.

¹⁷ European Commission (2017), *loc. cit.*, p. 13.

participate in this enhanced cooperation. The Commission still has to propose a cooperation framework between the EPPO and non-participating countries. The amendment proposed by the EP may create uncertainties, since non-participating country may not have the same cooperation rules as EPPO countries.

Moreover, EPPO investigations will be carried out by a European Delegated Prosecutor located in each Member State. This means that, when these Prosecutors will integrate the EPPO, they will still have their national functions. This structure, instead of an independent body from national functions, could create some issues since prosecutors' interests could affect their decisions.

CONCLUSION

While the Commission's proposal for reforming the 2014 regulation on funding of European parties has some positive points, significant loopholes still remain. The transparency of donations continues to be imperfect from a practical point of view, and some sources of donations are still underregulated. The problems of loans taken out by political parties has not been addressed by the 2014 regulation, neither by the new proposal. Lastly, the appointment and functioning of some control bodies are still unclear and greater transparency would be welcomed.

The text still need to be amended by the EP and the Council of the EU. There is a need for vigilance. Indeed, some of the amendments adopted by the EP's AFCD Committee water down positive provisions introduced by the Commission, such as more transparency on national parties' websites. The revision of the regulation should also be an opportunity to enhance ambitious rules regarding the founding of European political organisations. Finance is a necessary component of the democratic process and shape the future activities of political actors. It is therefore necessary to have ambitious and fair rules regarding political party funding and transparency, especially at this time of disaffection with the European political process.

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