



Statute and funding of European political parties under Regulation 1141/2014

Ex-post evaluation

STUDY

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On 28 January 2021, the Committee on Constitutional Affairs (AFCO) requested authorisation to draw up a report on the application of Regulation 1141/2014 on the statute and funding of European political parties and foundations in accordance with the evaluation clause set out in Article 38 of the regulation (co-rapporteurs: Rainer Wieland (EPP, Germany) and Charles Goerens, (Renew, Luxembourg)). The present study is aimed at supporting the scrutiny work of the AFCO committee.

European political parties are transnational political alliances made up of national parties from the same political family. Since July 2004, they have been able to receive funding from the EU general budget. The current Regulation 1141/2014, applicable since 2017, tightened the requirements for parties' recognition, funding and spending. Yet, some parties (and their affiliated foundations) found loopholes in the legal framework. Targeted amendments to the regulation adopted in 2018 and 2019 sought, *inter alia*, to prevent misuse of public funds, enhance the role of European parties in the European public space, and safeguard the integrity of the European elections by sanctioning breaches of the rules on the protection of personal data. This study examines the operation of the legal framework, ahead of the legislative revision announced by the European Commission in its 2021 work programme, and in support of the evaluation report currently undertaken by the AFCO committee.

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Executive summary

European political parties are transnational political alliances made up of national and regional parties sharing the same ideological affinity. In this respect, they are each a 'party of parties'. Together with their affiliated think-tanks, the European political foundations, they seek to bridge the gap between EU politics, national parties and EU citizens and to contribute to creating a European public space. Both entities have legal European personality and are registered under EU law. At present, 10 European political parties and 10 European political foundations are registered.

Since 2004, European parties have been entitled to funding from the EU general budget¹ to finance their activities, albeit under strict conditions. Their statute and funding are currently governed by Regulation 1141/2014, which has applied since 2017. In accordance with the evaluation clause in Article 38 of this regulation, the European Parliament has to report on the application of the regulation and on the activities funded by 31 December 2021. To this end, Parliament's AFPO committee is currently undertaking an own-initiative report under the co-rapporteurship of Vice-President Rainer Wieland (EPP, Germany) and AFPO Vice-Chair Charles Goerens (Renew, Luxembourg). To inform the report, the committee requested that EPFRS prepare a study to examine the legal framework and its application to date. Parliament's report constitutes a major step in the revision process, preparations for which have already started in the European Commission. Pursuant to Article 38 of the regulation, the Commission is set to draw up its own implementation report within six months of Parliament's resolution, paying particular attention to the implications for small European political parties. The report is expected to be accompanied by a new legislative proposal, as announced in the 2021 Commission work programme and the inception impact assessment issued in March 2021. The aim is to have the new rules in place well ahead of the 2024 European elections, so that they would apply in the 2024 financial year.

The **first chapter** of this study provides a brief historical outline of the evolution of the legal framework since the emergence of the first European political parties in the 1970s, in the run-up to the 1979 first direct elections to the European Parliament. It outlines the scope and main characteristics of Regulation 2004/2003, the first European party regulation, which laid down the rules and conditions for formal recognition of transnational party alliances as European political parties and their access to public funding from the EU general budget. A 2007 amendment of that regulation extended the funding regime to European political foundations. Even if certain principles and conditions set out in the original 2004 Party Regulation remained valid, today's Regulation 1141/2014 constituted a fundamental overhaul of the legal framework, establishing, among other innovations, a new EU oversight body, the Authority for European Political Parties and European Political Foundations.

The **second chapter** depicts the main characteristics of the current legal framework regulating European political parties and foundations. Special consideration is given to the requirements parties and foundations need to fulfil in order to qualify for registration, and to the rules in place on funding and spending. In this respect, it outlines the eligibility criteria for EU funding, the co-financing requirement and the restrictions regarding contributions and donations, as well as the limitations applying to spending. Subsequently, the rationale and changes of the two targeted amendments to Regulation 1141/2014 are discussed: that of 2018, closing certain loopholes to prevent abuse of EU funds and adjusting the funding rules; and that of 2019, which aimed at safeguarding the integrity of the European elections by sanctioning infringements of rules on the protection of personal data. Chapter 2 closes with the state of play of the ongoing revision process.

¹ Their affiliated foundations gained access to EU funding in 2007, when they were established by EU law.

The **third and main chapter** analyses the application of the legal framework to date. It starts with a discussion of the effect of the tightened registration requirements on the number of recognised European political parties and foundations, and outlines the complex values compliance mechanism enshrined in the regulation, which has never, up until now, been triggered. Subsequently, it looks into various aspects of funding, and examines questions of co-financing and issues related to own resources, such as donations, contributions and membership.

Most recently, the ruling of the General Court of the European Union in case T-107/19, *ACRE v Parliament*) has clarified that national member parties of European political parties can only come from within the EU. This raises questions, since practically all European political parties maintain close ties with like-minded partners outside the EU, whether in the context of enlargement, European neighbourhood policy, or the European Economic Area. Following Brexit, UK parties now count as non-EU parties. Traditionally, non-EU members enjoyed membership status (depending on the statute of individual European political parties either as full or associated member) and paid membership fees. According to the General Court's judgment, however, contributions from non-EU partners are to be considered as donations, and are therefore prohibited under the current regulation (Article 20(5)d).

Furthermore, based on European Court of Justice (ECJ) case law, the study examines irregularities encountered with parties' and foundations' spending. While some cases expose fraudulent intent, others show how difficult it can be to determine whether or not activities European parties have undertaken jointly with national partners are eligible for EU funding under the current rules.

Finally, this paper sheds some light on the role of European political parties in European Parliament elections, where recent experiences with the *Spitzenkandidaten* process have shown the potential for European political parties as facilitators in the electoral process. Moreover, the strict boundaries under EU law between European parties campaigning in European elections and their funding of national parties or candidates – the former permitted, the latter prohibited – leads to tensions, as the lines between the two are thin. Finally, the analysis looks into issues related to better visibility of European political parties in European elections, foreign interference in elections and the state of play regarding campaigning in referendums concerning European matters.

From a **methodological** point of view, this study is based on desk research. It analyses relevant legislation, examines the publicly available EU documents on the topic – reports, opinions and case law – and reviews research by academics and think-tanks, as well as press articles. The focus of the study is placed on the legal framework and its application. The scope of the study does not include the examination of financial reports of European parties and foundations and therefore does not provide insights into the activities that have been funded under Regulation 1141/2014.

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List of acronyms

ACRE	Alliance of Conservatives and Reformists in Europe
ADDE	Alliance for Direct Democracy in Europe
AFCO	Committee on Constitutional Affairs
ALDE	Alliance of Liberals and Democrats for Europe Party
CONT	Committee on Budgetary Control
DG FINS	Directorate-General for Finance (European Parliament)
ECA	European Court of Auditors
ECJ	European Court of Justice
EDPS	European Data Protection Supervisor
EESC	European Economic and Social Committee
EFA	European Free Alliance
EPPO	European Public Prosecutor's Office
FR	Financial Regulation
IDDE	Institute for Direct Democracy
INGE	Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation
OJ	Official Journal of the European Union
OLAF	European Anti-Fraud Office
OSCE/ODIHR	Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UKIP	UK Independence Party

1. Background

1.1. Introductory remarks on European political parties

The European Union's primary law, and in particular Article 10(4) TEU and Article 12(2) of the EU Charter of Fundamental Rights, recognises the contribution of European political parties 'to forming European political awareness and to expressing the will of citizens of the Union'. In this respect, European political parties have their legitimate place in the European democratic system as actors that bridge the gap between EU politics on the one hand, and national parties and citizens on the other. Together with their affiliated foundations, European parties seek to foster a European political debate and build a European public sphere. In turn, national parties use these transnational party alliances for gaining influence at the EU level 'beyond the sum of their parts'.²

European political parties differ in many ways from their national counterparts.³ Their conceptualisation is as umbrella associations of national and regional parties with similar ideological affinities, although in practice, the ideological heterogeneity of national parties gathered under the umbrella of a European party can be significant. One of the most striking differences between national and European parties is party membership. While traditional parties aim at mass membership of citizens, European parties are primarily made up of national and regional parties. On that account, they are 'parties of parties'⁴ and have little direct contact with the electorate. In practice, the main function of European political parties lies in networking between like-minded national parties, coordinating the positions of member parties at the EU level – above all prior to European Council meetings – influencing the EU political agenda, and adding a European dimension to national party politics.

Since 2004, European political parties have a party statute and have been granted access to direct funding from the EU budget. This funding system is tied to strict conditions and control mechanisms and has, since its inception, been subject to much debate. Over the years, it has undergone several adjustments to prevent the misuse of public funds and to enhance the role of European parties in the European public space. With regard to the latter, European political parties do not yet live up to their full potential, even if they have shown their potential as successful facilitators in the run-up to the last two European elections.

1.2. The emergence of the regulatory framework

European political parties evolved gradually since the mid-1970s, ahead of the first direct elections of the European Parliament, as transnational party alliances.⁵ They were first recognised in the Treaty of Maastricht as 'political parties at the European level'. A dedicated Treaty article declared them an

² S. Lightfoot, 'The consolidation of Europarties? The "party regulation" and the development of political parties in the European Union', *Representation*, Vol. 42(4), 2006, p. 305.

³ For a comparison between the traditional functions of national political parties with those at the European level, see the chapter 'What are European political parties and what do they do?', S. van Hecke [et al.], [Reconnecting European political parties with European Union citizens](#), International IDEA discussion paper 6, 2018, pp. 18-20.

⁴ Van Hecke, [et al.], p. 13.

⁵ The first European parties were the Socialist, Christian Democratic and Liberal party federations, which were formed between 1974 and 1976 (outside the European Parliament), followed by the Greens in 1984. For a historic account see: S. Hix and Ch. Lord, *Political parties in the European Union*, Macmillan Press, 1997, in particular chapter 7: Parties beyond the Parliament, pp. 167-197.

important factor for European integration.⁶ However, this provision remained silent on statutory, financial and operational aspects.

A 1996 report by the European Parliament reasoned that European political parties should be financed from the Union budget, as this would give them 'a financial incentive to strengthen their roots in society and seek greater financial autonomy'.⁷ To that end, the report advocated amending the Treaty provision so that it would allow for specific EU legislation to be passed. In particular, it called for:

- a framework regulation on the legal status of European political parties, to clarify their status, rights, obligations and procedures;
- and a regulation on their financing from the EU budget.

While the Treaty of Amsterdam brought no specific changes regarding the provisions on European political parties, a special report of the European Court of Auditors⁸ in 2000, reignited the debate on their funding. Due to the lack of dedicated finances, at the time, European parties relied heavily on the political groups in the European Parliament. It was common practice that groups not only channelled parts of their appropriations into their associated European parties, but that they also provided them with staff and office accommodation. The audit report denounced such practices as illegal and, moreover, commented on the blurred boundaries between groups and parties in their use of Parliament's technical facilities (such as conference rooms and interpretation).

The European Commission responded promptly with a first legislative proposal on the statute and financing of European political parties.⁹ The proposed regulation – requiring unanimity in the Council and conceived as a temporary act until the entry into force of the Treaty of Nice¹⁰ – was, however, never enacted, as no agreement was reached in the Council. The main stumbling blocks included compliance with democratic values, funding requirements in terms of representational thresholds – i.e. in how many Member States the member parties must be represented – and provisions regarding donations.¹¹

Eventually, the **Treaty of Nice** paved the way for a legal framework on European political parties. It provided for the adoption – this time under the co-decision procedure – of legislation 'governing political parties at European level and in particular the rules regarding their funding'. The amended Treaty provision intended to give European parties 'operational autonomy vis-à-vis the parliamentary groups'.¹² An attached declaration precluded that European parties would use EU funding for financing 'either directly or indirectly, political parties at national level'.¹³

⁶ Treaty of Maastricht, Article 138a: *Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.*

⁷ European Parliament resolution T4-0661/1996 on the constitutional status of the European political parties, 10.12.1996 ('[Tsatsos report](#)').

⁸ European Court of Auditors, [Special report No 13/2000](#) on the expenditure of the European Parliament's political groups. OJC 181, 28.06.2000.

⁹ [COM\(2000\) 898](#), subsequently amended by [COM\(2001\) 343](#).

¹⁰ A sunset clause embedded in the draft text sought to ensure that the regulation would expire after two years.

¹¹ [Press release](#) of the General Affairs Council meeting, 29 and 30 October 2001.

¹² European Parliament resolution [T7-0143/2011](#) on the application of regulation 2004/2003, 6.4.2011, point D.

¹³ [Declaration 11](#), on Article 191 of the Treaty establishing the European Community. OJ C 80, 10.03.2001, p 79.

A new European Commission proposal followed suit,¹⁴ and despite controversial discussions in both the Parliament and the Council, centred mainly along the values compliance mechanism and the representational threshold, the co-legislators agreed on a compromise text. This **first regulation governing European political parties, Regulation 2004/2003**,¹⁵ became applicable straight after the 2004 elections to the European Parliament. It laid down the conditions for formal recognition of European political parties and, most importantly, established a regulatory framework for their financing. In particular, the regulation made European parties eligible for direct funding from the EU budget. At the same time, it introduced restrictions on party income and spending.

Article 10(4) TEU

Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

Article 224 TFEU

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, by means of regulations, shall lay down the regulations governing political parties at European level referred to in Article 10(4) of the Treaty on European Union and in particular the rules regarding their funding.

Within the European Parliament, support for the regulation, and in particular for the funding framework, had mainly come from larger, pro-European political groups. Smaller Eurosceptic groups had predominantly spoken out against the proposals, but were outvoted.¹⁶ Subsequently, some of their Members challenged the legality of the regulation before the European Court of Justice, arguing it would discriminate against smaller and minority political groups. Nevertheless, the Court dismissed these claims on procedural grounds, holding that the applicant Members of the European Parliament were acting in their own name (rather than on behalf of their respective political parties) and were therefore not directly and individually concerned.¹⁷

Since 2004, the EU has had a system in place that funds the lion's share of European political parties' expenditure directly from the EU budget. These parties need to raise only a minor part of their annual budget from private sources. The percentage of this 'minor part' was repeatedly adjusted over the years, as will be shown in Chapter 3.2.3.

A 2007 amendment¹⁸ to Regulation 2004/2003 extended the party funding scheme to **European political foundations**. These are political think tanks at EU level, legally independent, but formally affiliated to European political parties. The rationale for their set-up was to complement and underpin the objectives of the corresponding European political parties, and to fuel the European public debate. The regulation attributes a wide array of tasks to those foundations, such as programmatic work, research activities, training for their members, political education and outreach with the public (e.g. conferences and events), and not least the function of a network for national foundations and experts from the same ideological family. In general, the focus of these foundations

¹⁴ [COM\(2003\) 77](#).

¹⁵ [Regulation \(EC\) No 2004/2003](#) on the regulations governing political parties at European level and the rules regarding their funding. OJ L 297, 15.11.2003, pp. 1–4.

¹⁶ The legislative resolution was adopted with 345 votes in favour, 102 against and 34 abstentions.

¹⁷ Case T-13/04, *Bonde and Others v Parliament and Council*, dismissed by the Court on 11 July 2005; Case T-17/04, *Front national and Others v Parliament and Council*, dismissed on 11 July 2005; appeal case C-338/05 P was dismissed on 13 July 2006; Case T-40/04, *Bonino and Others v Parliament and Council*, dismissed on 11 July 2005. For a discussion of the three cited cases see: J. Morijn, 'Formation and funding of European Parliament political Groups, political parties and political foundations v. EU-level political rights (case note T-118/17, *IDDE v European Parliament*)', A. Pahlandsingh and R. Grimbergen (eds.), *The Charter and the Court of Justice of the European Union: Notable Cases from 2016–2018*, Wolf Legal Publishers, 2019, pp. 266–267.

¹⁸ [Regulation 1524/2007](#).

is rather geared towards longer-term and strategic thinking, while the corresponding European parties (and even more so, the political groups in the European Parliament) are more involved in day-to-day politics.¹⁹ As a further major novelty of the amendment, European political parties were allowed to use some of their finances for **campaigning in the context of European elections**, albeit under strict conditions.

The 2004 regulation constituted a milestone in the development of European political parties, as it secured their financing, and hence their existence. Notwithstanding, two successive reports by the European Parliament examining the operation of the European party regulation identified major shortcomings in the legal framework.²⁰ A major issue of concern in this respect was the lack of legal personality and uniform legal status of European political parties. Moreover, a reformed funding procedure should draw a distinction between the recognition of political parties on the one hand and their funding on the other. This prompted a revision process that led, following two years of difficult negotiations, to the adoption of Regulation 1141/2014,²¹ which repealed the original Regulation 2004/2003.

The 2014 regulation introduced a number of significant changes:

- It provided for a registration procedure and a common register of European political parties and their affiliated foundations.
- It laid down governance rules for the parties and foundations.
- It introduced a European legal status (European legal personality) for registered European political parties and foundations,²² the acquisition of which was made a precondition for parties' eligibility for EU funding. At the same time, the regulation provided for the parties' legal recognition and capacity in all Member States.
- It provided for stricter control mechanisms, including sanctions for misconduct.
- And last but not least, it established the Authority for European political parties and European political foundations as an oversight body. This EU body is in charge of registering (and de-registering) parties and foundations; monitoring and controlling their compliance with the rules in place; and, if necessary, imposing sanctions.

Applicable since January 2017, Regulation 1141/2014 has since governed the statute and funding of European political parties and foundations. Targeted amendments²³ were passed in 2018 and 2019, to enhance transparency, democratic legitimacy and enforcement. The next chapter discusses the current regulation and its amendments in greater detail.

¹⁹ W. Gagatsek and S. Van Hecke, 'The development of European political foundations and their role in strengthening Europarties', *Acta politica*, Vol. 49(1), 2014, p. 9. Apart from this article, and compared to European political parties, European foundations appear still widely under-researched.

²⁰ European Parliament, reports on the application of regulation 2004/2003: [A6-0042/2006](#), rapporteur Jo Leinen (Germany, S&D); [A7-0062/2011](#), rapporteur Marietta Giannakou (Greece, EPP).

²¹ [Regulation 1141/2014](#) on the statute and funding of European political parties and European political foundations. OJ L 317, 4.11.2014, pp. 1–27.

²² Previously, they have been legal entities only under the national law of the Member State where they have their seat.

²³ [Regulation 2018/673](#) amending regulation No 1141/2014 on the statute and funding of European political parties and European political foundations; and Regulation [2019/493](#) amending Regulation No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament.

Figure 1 – The evolution of the regulatory framework on European political parties

pre-1979	<ul style="list-style-type: none"> • Emergence of the first transnational alliances of political parties at community level before the first direct elections to the European Parliament
1993	<ul style="list-style-type: none"> • Treaty of Maastricht – constitutional recognition of European parties through insertion of a specific treaty provision on 'political parties at European level'
1996	<ul style="list-style-type: none"> • Tsatsos report (EP own-initiative report) – called for amending Treaty provision on European political parties, to create a legal basis for regulating their financial and legal status
2000	<ul style="list-style-type: none"> • European Court of Auditors special report no. 13/2000 – criticised the practice of Parliament's political groups to finance European political parties from their group appropriations
2003	<ul style="list-style-type: none"> • Treaty of Nice – amendment of the party article established a specific legal basis for regulating parties' statute and funding
2004	<ul style="list-style-type: none"> • Regulation 2004/2003 - established a regulatory framework for the statute and funding of European political parties
2007	<ul style="list-style-type: none"> • Amendment to Regulation 2004/2003 – established European political foundations
2017	<ul style="list-style-type: none"> • Regulation 1141/2014 governing European political parties and foundations; became applicable in January 2017
2018	<ul style="list-style-type: none"> • First amendment to Regulation 1141/2014 – modified, inter alia, the funding rules and the representation requirements
2019	<ul style="list-style-type: none"> • Second amendment to Regulation 1141/2014 – focus on data protection
2021	<ul style="list-style-type: none"> • Evaluation of the regulation by the European Parliament by end-2021 (Article 38 of the regulation) • Revision of the existing regulation announced in the 2021 Commission work programme (Q3 2021)

Source: EPRS.

2. The current legal framework

The first part of this chapter is rather technical, as it presents the main elements of the current legal framework, in particular the role of the Authority, the registration requirements, the rules regarding funding and spending, and the provisions regarding financial control and sanctions. A discussion of the application of these and other provisions follows in Chapter 3.

Subsequently, this chapter examines the two amendments to the regulation passed in 2018 and 2019. Furthermore, it outlines the legal acts that constitute, together with Regulation 1141/2014, the legal framework for European political parties and foundations, before closing with the state of play of the revision of the regulation, currently under preparation.

2.1. Regulation 1141/2014

The current rules and principles governing the statute and funding of European political parties and their affiliated foundations are laid down in EU Regulation 1141/2014, as amended. The regulation was adopted under the ordinary legislative procedure, in accordance with Article 224 TFEU. It entered into force on 24 November 2014 and became applicable on 1 January 2017.²⁴ It has been amended twice, through EU Regulations 2018/673 and 2019/493 (see Chapter 2.2. for a detailed discussion of the modifications). The provisions regarding the funding of parties and foundations entered into effect from the 2018 financial year.

Under the current European party regulation, a political alliance and its affiliated foundation can, under specific conditions, apply for formal registration as a European political party or foundation. Registration is an important procedural step, since only formally registered parties and foundations enjoy European legal personality (once the decision to register them is published in the Official Journal of the EU) and are thus eligible for funding from the general budget of the EU. In turn, registered parties and foundations must adhere to a set of rules, in particular regarding their income (from public and private sources), spending, transparency, and adherence to the EU's fundamental values.

The rationale for the European party regulation was to create a party structure at the EU level, seen as a necessary step to fill the gap between EU politics on the one hand, and national parties and citizens on the other, and thus contribute to the creation of a European public sphere.

While the specific provision in the Treaty of Maastricht saw European political parties as 'an important factor for European integration', this seemingly pro-European notion was later replaced. Today's regulatory framework for European parties instead stresses 'the need to ensure party pluralism' (Articles 6 and 11), key in any democratic system. In this respect, access to EU funding is not conditional on parties' support for European integration, and Eurosceptic parties are thus equally as eligible for funding as pro-European parties, as long as they comply with all requirements, including adherence to the EU's fundamental values.

2.1.1. Authority for European Political Parties and Foundations

One of the major innovations of the new regulation was the establishment of the Authority for European Political Parties and European Political Foundations ('Authority'). Although physically located on European Parliament's premises, the Authority is an independent EU body that enjoys its

²⁴ Article 6, which establishes the Authority for European Political Parties and European Political Foundations, already applied as of 1 September 2016.

own legal personality. It was formally set up in September 2016, but effectively began its operations on 1 January 2017, the date of application of Regulation 1141/2014. The Authority is headed by a director, appointed for a five-year non-renewable term by a selection committee composed of the Secretaries-General of the European Parliament, the Council and the European Commission, following an open call for candidates.²⁵ Under the former Regulation 2004/2003, European political parties and foundations had been under the responsibility of the European Parliament, which was in charge of funding and verifying their compliance with the rules and conditions. Under the current regulation, only the management of grants from the EU budget has remained with the Parliament, whereas most of the other functions were transferred to the Authority.

The Authority is entrusted with registering, controlling and, in case of non-compliance, sanctioning European political parties and foundations. It has the power to decide on the registration – including denial of registration and de-registration – of parties and foundations in accordance with the conditions set out in the regulation. Furthermore, it monitors registered parties and foundations' continued compliance with the rules, since this is a pre-condition for maintaining their status and access to EU funding. Moreover, its mandate includes verification of parties' and foundations' respect of the **fundamental values** upon which the EU is founded, as laid down in Article 2 TEU. It is important to note that the Authority has also wide-reaching sanctioning powers: it can remove a party or foundation from the register by way of sanction or impose financial sanctions on them in case of non-compliance with their obligations under the regulation (Article 27).

However, while the Authority has wide powers with regard to the scrutiny of the **formal** requirements set out in Regulation 1141/2014, its powers are more limited with regard to verifying whether a registered party or foundation is in breach of the EU's fundamental values. In such a case, the Authority cannot decide alone on de-registration of the party concerned, instead, a complex procedure comes into play with built-in safeguards that also involves the Parliament and the Council, both of which are granted a right of veto. This values compliance mechanism is explained in detail in Chapter 3.1.1.

In general, any decision taken by the Authority is subject to judicial review by the European Court of Justice (mainly through actions for annulment pursuant to Article 263 TFEU).

2.1.2. Registration requirements

European political parties

Article 3 of Regulation 1141/2014 defines the conditions a political alliance, made up of like-minded national and regional parties, must fulfil to obtain registration as a European political party. Registration is the precondition for access to EU funding and subject to the following requirements:

- The party alliance must have its seat in an EU Member State.
- It must not pursue profit goals.
- The alliance or its members must have participated in European elections (or intend to do so in future).
- Its member parties must be represented in at least one quarter of EU Member States by elected members of a parliament (at the European, national or regional level). Alternatively, its member parties must have obtained, in minimum one quarter of Member States, at least 3 % of the votes cast in the last European elections.
- Member parties cannot be members of different European political parties.²⁶

²⁵ The Authority's founding director is Michael Adam. He was appointed by [decision 2016/1432](#) of 19 August 2016, for the period 1 September 2016 to 31 August 2021.

²⁶ This requirement was added through amendment 2018/673.

- The programme and activities of the political alliance must respect the founding principles set out in Article 2 TEU (i.e. respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights).

One of the most controversial points during the negotiations – alongside the values compliance mechanism – was the representational threshold. In political practice, the threshold of minimum one quarter of Member States is considered a challenging requirement.²⁷ In this context, it is worthwhile noting that earlier proposals had suggested an even higher threshold of one third of Member States,²⁸ which was eventually considered too high.

European political foundations

For European foundations, registration conditions are similar to those of parties, as far as their seat, their non-profit status, the representational threshold and compliance with European values are concerned. In addition, a foundation seeking recognition must be affiliated with a registered European political party and complement the latter's objectives. Under Article 3(3) of Regulation 1141/2014, a European party can have no more than one formally affiliated European foundation.

Table 1 – Registration conditions for European parties and foundations

European political parties	European political foundations
Seat in an EU Member State	
Representation in at least one quarter of EU Member States	
Respect for fundamental values set out in Article 2 TEU	
Non-profit goals	
Member parties must not be members of another European political party	Formal affiliation with a registered European political party
Member parties must have participated in European elections (or intend to do so)	Objectives of the foundation need to complement those of the associated party

2.1.3. Governance of European political parties and foundations

Articles 4 and 5 of Regulation 1141/2014 regulate the governance of European political parties and foundations, respectively. The relevant provisions set out that the statutes of European parties and foundations must comply with the applicable law of the Member State in which they have their seat. Moreover, they stipulate that the statutes of a European party must include:

- some minimum provisions regarding its name, logo, seat and political programme;
- the name of the affiliated political foundation and a description of the formal relationship between the party and the foundation;
- and some minimum rules regarding the internal party organisation (e.g. the modalities for admission, resignation and exclusion of its members; the list of its component members; rights and duties associated with all types of membership; the powers, responsibilities and composition of its governing bodies).

²⁷ Van Hecke [et al.], p. 25.

²⁸ In particular the European Parliament's Tsatsos report (1996) and the Commission's 2003 proposal (COM(2003) 77).

Article 4(3) establishes that the Member State of the party's seat may impose additional requirements for the party statutes, provided those additional requirements are not inconsistent with the regulation.

Overall, the provisions on governance are not very prescriptive and leave European political parties much leeway to organise themselves and to elect their main bodies.

2.1.4. Current funding rules

Eligibility criteria

Article 17 of the regulation sets out the principles and conditions for parties' and foundations' eligibility for EU funding. Accordingly, a European political party may apply for funding from the EU budget on the condition that:

- it is formally registered with the Authority as a European political party; and
- it is represented in the European Parliament by at least one Member of the European Parliament, who must not sponsor any other European political party.

In comparison, a European political foundation is eligible for EU funding provided it has itself obtained registration with the Authority, in addition to the party with which it is formally affiliated.

Criteria for the allocation of funds from the EU general budget

Since 2004, the allocation of funds from the EU budget makes up the largest part of European parties' income (and since 2008 also of foundations). Both entities are required to raise part of their annual income in own resources, which they gain mostly from membership fees and donations. For both types of income – EU funding and own resources – strict rules apply, in particular concerning spending, transparency and accountability, and control.

European political parties

The regulation caps EU public funding at maximum 90 % of the party's reimbursable annual expenditure. Or, put differently, the party needs to secure at least 10 % from other sources.

The total amount of funding from the EU budget – €46 million for the 2021 financial year²⁹ – is distributed among all parties eligible for funding, pursuant to the **distribution key** specified in Article 19 of the regulation:

EU party funding: The budgetary procedure

The total amounts available for funding European political parties and foundations for a given financial year are determined in the annual budgetary procedure.

In a first step, the Secretary-General of the European Parliament includes estimates in Parliament's draft budget, requiring approval by Parliament's Bureau. The draft budget is examined and adopted by the Budget Committee and subsequently endorsed by the plenary.

In a second step, Parliament's administrative expenditure feeds into the draft budget of the European Union (Section I), which is prepared by the European Commission and subsequently negotiated by Parliament and the Council.

The final appropriations available for the funding of European political parties and foundations figure in the section on the European Parliament of the general budget of the European Union (budget item 4 0 2 for parties and 4 0 3 for foundations). In the 2021 budget, €46 million are earmarked for European political parties and €23 million for foundations. These appropriations are implemented in accordance with Regulation 1141/2014, the EU's Financial Regulation and the implementing decision by Parliament's Bureau.

²⁹ See Budget online at <https://eur-lex.europa.eu/budget/www/index-en.htm>, [Section 1 - Parliament](#), expenditure, item 4 0 2.

- 10 % of the total amount is distributed in equal shares among the eligible European political parties (so that each party receives the same lump sum as basic funding);
- while the remaining 90 % are proportionally distributed, according to their representation in the European Parliament, that is the number of Members of the European Parliament signed up per European political party.

This two-tier system ensures that all registered European political parties represented by at least one Member of the European Parliament have access to some basic EU funding, regardless of the party's size. However, as the lion's share of the funds is disbursed in proportion to the number of seats in the European Parliament, the amount of EU funding is higher for those European parties that are represented by a greater number of Members.

In practice, the amount a European party can effectively obtain in public funding varies from one year to another, as it is dependent on a number of factors:

- The **total amount available** for party funding for a given financial year, i.e. the amount earmarked in the European Parliament's general budget under budget line 4 0 2. This amount may change from one year to the next.
- The **distribution key**: higher basic funding (lump sum) makes a proportionally bigger difference to smaller parties than to larger ones; adjustments in this respect are discussed in Chapter 3.2.2.
- The **number of Members of the European Parliament** affiliated to a European political party: as national parties and individual Members may decide to modify their membership in a European political party during a parliamentary term, changes in the numbers of Members linked to that party may occur; therefore, parties are required to submit their updated list of Members of the European Parliament to the Authority once per year.
- The **number of European political parties** qualifying for funding; this number fluctuates when new parties meeting the registration conditions emerge, or existing ones are removed from the register. De-registration can be due to the following reasons: parties may dissolve; they may no longer fulfil the registration conditions; or they may have been the subject of sanctions for non-compliance with the rules.
- The funding amount the party has **applied for**, which may remain below the 90 % threshold.
- And finally, whether or not the party succeeds in gathering the required threshold of **own resources**; otherwise, the EU funding is downsized until it corresponds to 90 %.

While all these factors impact on the amount of **pre-financing** a party can obtain, the **final funding amount** is only determined retrospectively, resulting from the ex-post control of the party's expenditure carried out by an external auditor and Parliament's financial services.

European political foundations

For foundations, EU public funding is limited to a maximum 95 % of annual expenditure, since compared to parties, it is harder for them to acquire sufficient own resources. In other words, foundations need to collect only 5 % of their budget from private resources. Irrespective of the difference in co-financing thresholds, at 10:90, the distribution key remains the same for parties and foundations.

Table 2 – Current funding thresholds under Regulation 1141/2014

	European parties		European foundations	
Co-financing threshold	90 %	Funding from the EU budget	95 %	Funding from the EU budget
	10 %	Private funding	5 %	Private funding
Distribution key	10 % in equal shares			
	90 % in proportion to the share of Members of the European Parliament			

Source: EPRS.

Restrictions applying to donations and contributions

Definition of donation

Any payment, in whatever form, **originating from third parties** (i.e. non-members of the European party or foundation). This includes payments in cash, offerings in kind, the provision of below market value of any goods, services (including loans) or works and/or any other transaction which constitutes an economic advantage for the party or the foundation.

Source: Regulation 1141/2014, Article 2.

Definition of contribution

Any payment, in whatever form, **originating from a member** of the European party or foundation. This includes payments in cash, e.g. membership fees, contributions in kind, the provision of below market value of any good, services (including loans) or works, and/or any other transaction which constitutes an economic advantage for the party or the foundation.

Source: Regulation 1141/2014, Article 2.

As illustrated above, co-financing is mandatory for European parties and foundations under Regulation 1141/2014. Therefore, parties and foundations need to generate a certain percentage of their income by way of contributions and donations. Regulation 1141/2014 defines any payments from party members as contributions, and any payments from third parties as donations. This own-resources requirement aims at ensuring that parties and foundations engage in fundraising and strive at building up ties with their members and citizens. The regulation sets no upper ceiling in terms of how much a European political party can raise in own resources. However, a cap applies to payments from member parties: their total amount may not exceed 40 % of the party's annual income. The 40 % ceiling also applies to foundations.

For reasons of transparency and accountability, and with a view to avoiding corruption, a number of restrictions apply to the collection of contributions and donations. The relevant rules are spelled out in Article 20 of the regulation.

Permitted donations and contributions under Regulation 1141/2014

First and foremost, parties may accept **donations** from legal and natural persons. A ceiling of €18 000 per year and donor applies for both individual and corporate donors. Out of principle, donations are subject to stringent transparency requirements. In this respect, European political parties and foundations must disclose the identity of all donors, together with the amount of their donations. In practice, they do so once annually, when submitting their annual financial statements. In line with the proportionality principle, looser transparency requirements apply to donations from natural persons below €3 000 (annual total). If single donations exceed a value of €12 000, they must be immediately reported in writing to the Authority. Donations do not necessarily need to be cash

payments, but may include other forms, such as offerings in kind. For in-kind donations, the party or foundation needs to determine the value and include it in the party accounts.

Contributions from members of the European political party are generally permitted, regardless of whether the members are natural or legal persons. In practice, membership contributions from individual citizens play a minor role; parties generate the main part of own resources from their national member parties. Even if no ceiling applies for contributions from individual member parties, as already underlined, they are subject to a collective upper ceiling: their total value must not exceed 40 % of the European party's annual budget. For contributions from individual party members (i.e. natural persons), an annual cap of €18 000 applies (in analogy to donations). The sole exception applies to party members who are elected parliamentarians (at the European, national or regional level): they are allowed to surpass the cited threshold.

Transparency requirements apply to all kind donations and contributions, including membership fees. Transparency rules are even tighter for donations received in pre-election periods: within six months prior to European elections, parties and foundations are required to report donations received to the Authority on a weekly basis. Such requirement is common in other democracies and aims at ensuring the fairness of the elections.

The regulation includes specific rules for European political foundations. A foundation may accept contributions from its members, and also from its parent European political party. However, two limitations apply: first, as for parties, the total value of these contributions must not exceed 40 % of the foundation's annual budget; and second, these contributions must not derive from funds the political party in question has received from the general EU budget.

Prohibited donations and contributions under Regulation 1141/2014

Article 20 not only sets out what constitutes a permissible donation/contribution (and under what conditions), but it also regulates what types of donations and contributions are prohibited. Most importantly, as a general rule, anonymous donations and contributions are forbidden. Furthermore, donations must not originate from the budget of political groups in the European Parliament. Donations from any public authority and government-related entities from an EU Member State or a third country are also proscribed.

Finally, donations from foreign donors are banned. This concerns all donors from third countries, i.e. public authorities and government-related entities; private entities; and individuals based in a third country. The only exception to this ban are individual citizens who have the right to vote in European Parliament elections (i.e. EU citizens living abroad). Recent case law established that contributions from foreign members are to be considered as donations and are thus forbidden under the current legal framework.³⁰

Under Article 20(6) of Regulation 1141/2014, European parties and foundations need to return any forbidden donations to the donor. If a repayment is not viable (e.g. in case of an anonymous donation), the donation must be reported to the Authority and the European Parliament. In accordance with the EU's Financial Regulation, Parliament is entitled to recover the amount. This amount is then fed into the general budget of the EU.

³⁰ Case T-107/19 *Alliance of Conservatives and Reformists in Europe (ACRE) v Parliament*, see [judgment](#) of the General Court issued on 25 November 2020, para. 150-175; this ruling is discussed in Chapter 3.2.4.

Table 3 – Summary table of permitted and prohibited donations and contributions

	Donations and contributions	Comments
Permitted donations and contributions	Donations up to €18 000 per donor and per year	Donors may be natural and legal persons
		Disclosure of donors' identity for donations above €3 000
		Immediate notification for donations above €12 000
		Weekly reporting in pre-election periods
	Contributions from members of the European party or foundation	Contributions from natural and legal persons
	➤ national and regional parties/national foundations and associations	Total value must not exceed 40 % of the annual income of the European party/foundation
	➤ individual members (i.e. natural persons)	Cap of €18 000 applies, but no obligation to disclose identity
Prohibited donations and contributions	➤ elected members (of the European, a national or a regional parliament)	Exempted from cap
	In-kind donations and contributions	Value to be determined
	Anonymous donations	
	Foreign donations and contributions	Unless from a natural person residing in a third country who has the right to vote in European Parliament elections
	Contributions and donations from	
	➤ political groups in the European Parliament ➤ any public authority	

Source: EPRS

2.1.5. Rules on spending

Article 22 of the regulation sets out certain limitations on how European parties and foundations can spend their money.

European parties

First and foremost, European parties must not support – directly or indirectly – national political parties or candidates in national elections. This prohibition on financing national political parties

was already laid down in a declaration annexed to the Treaty of Nice,³¹ to preclude that EU funds could be used to influence national elections or the competition between national parties.³²

European parties are allowed to finance campaigns in the context of elections to the European Parliament, 'in which European parties or their members participate' (Article 21 of the regulation). The green light for European parties to engage in European Parliament election campaigns was given in 2007, with a view to further enhancing and promoting the European character of European Parliament elections, as suggested by a recital of the amending regulation. Transparency requirements apply: European parties are required to flag any kind of expenditure linked to campaigns for European elections in their annual accounts. The regulation emphasises that, in accordance with the provisions in the 1976 Electoral Act, 'the funding and possible limitation of election expenses for all political parties, candidates and third parties is governed in each Member State by national provisions' (Article 21(1)).

European foundations

Interestingly, the provision regarding the funding of European Parliament election campaigns does not extend to European foundations. While Regulation 1141/2014 sets out in general that European foundations must not fund – directly or indirectly – 'elections, political parties, candidates or other foundations', Recital 28 is explicit about the funding ban pertaining to European elections ('European or national political parties or candidates').

With regard to foundations, the regulation prohibits the use of their funds for any other purpose than:

- analysing and contributing to the European public debate;
- organising and supporting seminars, training, conferences and studies;
- developing cooperation to promote democracy, including with entities in third countries;
- and serving as a framework for national political foundations and academics.

Referendum campaigns

Furthermore, the regulation strictly bans the financing of referendum campaigns through European parties and foundations (Article 22(3) of the regulation). The rationale behind this prohibition is that referendums are conducted at the national level, even if they may focus on issues pertaining to EU integration or EU politics.

2.1.6. Financial control and sanctions

Financial control

Article 23 of the regulation governs accounts, reporting requirements and auditing obligations. Accordingly, European parties and foundations need to submit the following documents to the Authority:

- their annual financial statements and accompanying notes, covering their revenue and expenditure, assets and liabilities, in accordance with the law applicable in the Member State in which they have their seat, as well as annual financial statements on the basis of international accounting standards (pursuant to Article 2 of Regulation 1606/2002);
- an external audit report on their annual financial statements, carried out by an independent body or expert, the latter selected, mandated and paid by the European Parliament; and

³¹ [Declaration 11](#) on Article 191 of the Treaty establishing the European Community. OJ C 80, 10.03.2001, p 79.

³² W. Wolfs and J. Smulders, 'Party finance at the level of the European Union: party finance reform to vitalize the EU's proto-party system?', J. Mendilow and E. Phélippeau (eds), *Handbook of political party funding*, Elgar Publishing, 2018, p. 193.

- the list of donors and contributors and their corresponding donations or contributions.

While the documents are to be submitted to the Authority, Parliament's Authorising Officer and the competent national contact point of the Member State where the party or foundation has its seat also receive a copy of the aforementioned documents. In fact, control of European parties and foundations' compliance with their obligations under the regulation is exercised, in cooperation, by the Authority, the European Parliament and the competent Member States (Article 24).

The European Parliament exercises control of funding received from the EU budget and the related spending in accordance with the EU's Financial Regulation. In this respect, the Party Regulation states that, in carrying out such controls, Parliament should 'take the necessary measures in the fields of the prevention of and the fight against fraud affecting the financial interests of the Union' and entitles Parliament to recover unspent funds and amounts unduly paid (Article 24(2)).

As further instances of control, the regulation mentions the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF). The former may verify the legality of expenditure and the proper implementation of the provisions of the EU funding agreements with European parties and foundations within its general mandate to examine the accounts of all revenue and expenditure of all bodies (Article 287 TFEU). In comparison, OLAF is involved in suspected cases of fraud and corruption, to carry out investigations in connection with public funding of European parties and foundations under Regulation 1141/2014. Ultimately, OLAF findings may result in the Authorising Officer of the European Parliament taking a recovery decision. Finally, Recital 30a recalls that it would be up to the European Public Prosecutor's Office (EPPO) to investigate alleged criminal offences by European parties and foundations that affect the EU's financial interests.

Sanctions

Article 27 governing the sanctions regime is actually the longest and most detailed article of the entire regulation. Under the regulation, the Authority is entitled to impose sanctions on European parties and foundations in case of irregularities. Two categories of sanctions are envisaged (Article 27):

- removal from the register, if European parties and foundations no longer comply with the registration conditions and requirements, or if a judgment has found them guilty of illegal activities detrimental to the financial interests of the Union; and
- financial sanctions (i.e. fines); in this context, distinction is made in the regulation between quantifiable and non-quantifiable infringements.

To date, the Authority has never made use of its sanctions powers. However, the deterrent effect of the sanctions should not be under-estimated. For instance, in the event of irregular sums received or not reported, the fine can amount to 300 % of the irregular sums (if they exceed €200 000) or up to 50 % of a European party's annual budget when a judgment finds it to have engaged in illegal activities detrimental to the financial interests of the EU.

Further sanction powers for the misuse of funds are held by the Authorising Officer of the European Parliament, as set out in the Party Regulation and in the Financial Regulation. The Authorising Officer is empowered to exclude a European party or foundation from future EU funding for up to five years (or even up to 10 years, if the infringement is repeated).

2.2. Amendments to Regulation 1141/2014

Regulation 1141/2014 was amended twice, in 2018 and 2019, through Regulation 2018/673 and Regulation 2019/493.

2.2.1. The 2018 amendment

Even before Regulation 1141/2014 had become applicable on 1 January 2017, some actors within the European Parliament – notably the larger political groups – considered revising that regulation 'a matter of urgency', to mitigate major shortcomings and loopholes. Their concerns were spurred by a number of cases of inappropriate use of funding, which Parliament's administration had discovered while verifying parties' accounts and which had also come to light in the press.³³ The emergence of atypically composed right-wing parties, made up of just a few national parties and otherwise individual members (see Chapter 3.1.) was a phenomenon perceived as worrying. Moreover, in a few cases, Parliament had not been able to recover the funding for non-eligible expenditure from parties and foundations because they had gone bankrupt in the meantime. Overall, Parliament considered there was an urgent need to amend the legal framework to better protect the EU's financial interests. Although the cited malpractices related to the application of the initial Regulation 2004/2003, without amendment, the new Regulation 1141/2014 would not have prevented similar cases.

In a first step, in April 2016, the presidents of the three largest political groups in Parliament asked the European Commission in writing to revise the regulation.³⁴ Subsequent plenary debates,³⁵ one of which was prompted by an oral question to the Commission,³⁶ addressed a number of issues in the application of the regulation. A case in point was the sponsoring of new 'pseudo-parties',³⁷ which were made up of one or two national political parties and otherwise mainly individual members. To gain access to EU funding, various European parties relied on the sponsorship of members of one and the same national party, or, in extreme cases, even of one and the same individual member ('multi-membership'). This malpractice was denounced – also by the Council – as an attempt to circumvent the initial objective of the regulation.

Another key issue in the debate was the level of co-financing, as it appeared that parties and foundations encountered major difficulties in meeting the required level of own-resources (15 % of their annual budget at the time). This made parties and foundations prone to using 'dubious' financial practices in order to reach the threshold.³⁸ Such dubious practices included, for instance, the abundant listing of in-kind contributions in the accounts, which are generally difficult to audit, and lucrative contracts in exchange for donations,³⁹ also described as 'circular financial flows'.⁴⁰

In a resolution passed on 15 June 2017, Parliament recalled that party funding should be 'transparent and not open to abuse' and encouraged the European Commission to propose a revision that would tackle the observed shortcomings, 'especially in respect of the level of co-

³³ e.g. Euractiv, [Danish far-right MEP ordered to return €400,000](#), 10.5.2016; Euractiv, [EU anti-fraud body to probe Danish party](#), 17.10.2016; The Guardian, [EU set to ask Ukup group to repay almost £150,000 in 'misspent funds'](#), 17.11.2016; NRC Handelsblad, [Anti-EU partijen zijn goed in misbruiken EU subsidies](#), 17.11.2016; Wall Street Journal, [European Parliament Asks UKIP To Pay Back Money Used For Brexit Campaigning](#), 21.11.2016.

³⁴ This letter is mentioned in the [plenary debate of 15 March 2017](#) and in [Oral question O-000007/2017](#).

³⁵ On [15 March 2017](#) and on [14 June 2017](#).

³⁶ [Oral question O-000007/2017](#), Danuta Hübner on behalf of the AFCO Committee, 31 January 2017.

³⁷ Council press release, [Funding of European political parties: revised rules get Council approval](#), 7 March 2018.

³⁸ [COM\(2017\) 481](#), p. 7.

³⁹ EU Observer, [Anti-EU parties face funding cuts](#), 15.9.2017.

⁴⁰ R. Kergueno, [Fraud and boats: funding European political parties](#), Transparency International, 2017.

financing (own resources), and of the possibility of multi-party membership of Members of the European Parliament'.⁴¹

The proposal presented by the European Commission in September 2017⁴² sought to 'close loopholes and improve transparency, to ensure the appropriate allocation and expenditure of limited resources from the EU budget'.⁴³ When then-Commission President Jean-Claude Juncker announced the proposal in his State of the Union speech, as part of the democracy package ahead of the 2019 European Parliament elections, he stated bluntly that the aim of the reform was to prevent abuse ('We should not be filling the coffers of anti-European extremists').⁴⁴ The proposal did not, however, aim at restricting party pluralism: it was intended to 'in no way dictate what programmes EU parties should follow',⁴⁵ as Vice-President Frans Timmermans emphasised.

Due to the urgency imposed by the 2019 European elections, the co-legislators agreed on the text of the amendment in record time, after consulting the advisory committees and the European Court of Auditors.⁴⁶ Regulation 2018/673 was adopted on 3 May 2018, and entered into force the day after. The Bulgarian Council Presidency was satisfied that the amendment 'put an end to abuses', ensured more fairness in funding and increased transparency ahead of the 2019 European Parliament elections.⁴⁷

The amendment tackled a number of specific issues:

First and foremost, it reformed the **funding rules**. In particular,

- it modified the co-funding thresholds, raising the share of EU funding to 90 % for political parties, and to 95 % for foundations. (Formerly, the applicable threshold had been 85 % for both entities.) The lowered level of own resources should make it easier for parties and foundations to meet the co-funding threshold without 'using questionable practices', as the European Court of Auditors noted.⁴⁸ However, some observers found that lowering the threshold alone was insufficient to tackle the underlying transparency issues.⁴⁹
- It re-adjusted the distribution key of the EU envelope in a way that better reflected the election results. Under the new rules, 10 % of the total appropriations are distributed in equal shares among the political parties and foundations, and 90 % in proportion to their share of elected Members of the European Parliament (previously, the distribution key was set at 15 % and 85 %). This reform better aligned EU funding to parties' representation in the European Parliament. It hit smaller parties (and their foundations) hard, whereas the financial impact on larger parties was negligible.⁵⁰

⁴¹ European Parliament [resolution T8-0274/2017](#) on the funding of political parties and political foundations at European level, 15.6.2017.

⁴² COM(2017) 481.

⁴³ Explanatory memorandum, p. 4.

⁴⁴ J.-C. Juncker, [State of the Union Address 2017](#).

⁴⁵ *Wall Street Journal*, [EU Executive Body Proposes Stricter Party Finance Rules](#), 15.9.2017.

⁴⁶ EESC, [Opinion](#) on the Statute and funding of European political parties and foundations, 7.12.2017; ECA, [Opinion No 5/2017](#), OJ C 18, 18.1.2018, pp. 1–4.

⁴⁷ Statement by Monika Panayotova, Deputy Minister for the Bulgarian Presidency of the Council, quoted in Council press release [Funding of European political parties: revised rules get Council approval](#), 7.3.2018.

⁴⁸ European Court of Auditors, [Opinion 5/2017](#) concerning the Commission proposal COM(2017) 48, para. 11.

⁴⁹ Kergueno, 2017.

⁵⁰ See simulation table in [COM\(2017\) 481](#), p. 6.

Moreover, the amendment tightened the **representation requirements** for European political parties (i.e. the requirement to be represented in at least one quarter of Member States), by introducing two fundamental changes:

- It declared the forming of a European political party a **prerogative of national (or regional) parties**; as a consequence, individual members were no longer taken into account for the representation threshold.
- It abolished multi-party membership. National parties were thus no longer allowed to be members of more than one European political party.

Furthermore, under the heading sanctions, the rules for de-registration of political parties or foundations (i.e. removal from the register) were stiffened. To safeguard the **EU's financial interests**, in the event of infringement or fraud, recovery of misspent funds was made possible from natural persons, representing a party or foundation and responsible for the infringement (Article 27a: responsibility of natural persons). Furthermore, publishing the logos and political programmes of the European political parties on the websites of their member parties was made compulsory. This measure aimed at greater **visibility** of the affiliations between national parties and their parent European parties.

And, as a final point, the **evaluation clause** embedded in the regulation was amended, moving the deadline for Parliament's evaluation report from mid-2018 to 31 December 2021, and postponing the subsequent European Commission review accordingly.

Notwithstanding, a number of other issues in the application of the regulation which had been flagged during the various parliamentary debates at both, committee and plenary level, **remained unaddressed in the 2018 amendment**. These concerned in particular:

- the financing of referendum campaigns;
- loans and donations;
- limiting contributions in kind, which are difficult to verify;
- and the question whether parties should be allowed to build financial reserves.

Views were divided on the amendment. While some hailed it a success, others were more critical. For instance, Euractiv claimed that the warnings of the Court of Auditors' had fallen 'on deaf ears'; the amendment would 'simply lower the bar for EU grants', without tackling 'dodgy donations and loans'.⁵¹ Transparency International found the former distribution key of 15 % was fairer, as it had ensured a higher basic income for smaller parties and foundations. It argued that lowering this threshold should not be used as a means to reduce funding for 'staunchly anti-democratic' parties. Instead, it suggested tightening the registration requirements or serious assessment of parties' compliance with the EU's fundamental values.⁵²

2.2.2. The 2019 amendment

In September 2018, in the wake of the Facebook/Cambridge Analytica data scandal,⁵³ where personal data were harvested at large scale to generate personalised advertisements, the European Commission proposed a further targeted amendment to Regulation 1141/2014, aiming at protecting the integrity of the European elections. It introduced a **sanction mechanism for infringement of data protection rules** and fraudulent use of personal data by European political

⁵¹ Euractiv, [New EU party finance rules short circuit accountability](#), 19.4.2018.

⁵² Kergueno, 2017.

⁵³ European Commission, Report on the 2019 elections to the European Parliament, [COM\(2020\) 252](#), p. 1. For an analysis of the scandal, see e.g. M. Hu, '[Cambridge Analytica's black box](#)', *Big Data & Society*, July-December 2020, pp. 1-6.

parties and foundations.⁵⁴ The positions of the Parliament and the Council were close on this file, ensuring that the amending Regulation 2019/493 could be swiftly adopted in March 2019, ahead of the European Parliament elections, and after having consulted the European Data Protection Supervisor (EDPS) and the European Economic and Social Committee (EESC).⁵⁵

The mechanism provides for dissuasive financial sanctions on European political parties or foundations that deliberately influence (or attempt to influence) the outcome of European elections by taking advantage of a breach of personal data rules. From a procedural point of view, the amendment established a verification procedure for determining whether a breach of data protection rules has taken place. To be noted, the scope of the protection extends solely to **personal data**. Following notification of a violation by a national supervision authority, the verification is carried out by the Authority for European political parties and foundations, under involvement of the committee of independent eminent persons. In the event of a proven infringement, the Authority may impose a fine on the party, which can amount to 5 % of the concerned party's annual budget. Moreover, a party found guilty risks a ban on applying for EU funding for an entire year.

The 2019 amendment also strengthened the Authority by reinforcing its staffing situation. This was welcomed, as the wide portfolio of responsibilities had put the Authority's human resources under strain during its first years of activity.

⁵⁴ [COM\(2018\)636](#).

⁵⁵ EDPS, [Summary of the Opinion of the European Data Protection Supervisor](#) on the Commission Package on free and fair European elections, OJ C 47, 6.2.2019, pp. 8-11; EESC, [Opinion SOC/613-EESC-2018](#) on the Protection of personal data in the context of EP elections, 12.12.2018.

2.3. Other legal acts

While Regulation 1141/2014, as amended, is the principal legislative act in the legal framework regulating European parties and foundations, a set of other acts complement the framework (see schematic overview below). These encompass the EU's Financial Regulation and a number of delegated and implementing measures, which are briefly outlined below.

Figure 2 – Current legal framework

European Party Regulation	<ul style="list-style-type: none"> • Regulation 1141/2014 (repealing Regulation 2004/2003)
Amendments to the Party Regulation	<ul style="list-style-type: none"> • Regulation 2018/673 • Regulation 2019/493
EU Financial Regulation	<ul style="list-style-type: none"> • Regulation 2018/1046 <ul style="list-style-type: none"> - Title XI (contributions to European political parties) and - Title VIII (grants)
Delegated/implementing acts and other measures	<ul style="list-style-type: none"> • Commission delegated Regulation 2015/2401 • Commission implementing Regulation 2015/2246 • Decision of the Authority of 24 July 2020 • Decision of the European Parliament's Bureau of 1 July 2019 • Parliament's Rules of Procedure (Rules 25(11) and 235)

Source: EPRS.

2.3.1. Financial Regulation

The EU's Financial Regulation⁵⁶ sets out the rules applicable to funding from the EU budget for European political parties and foundations. These rules are specified in Title XI ('contributions to European political parties') and in Title VIII ('grants'), respectively. They lay down some general principles and govern the financial aspects of the award procedure, the use of the funding, reporting obligations, control powers by Parliament, the Court of Auditors and OLAF, as well as administrative and financial penalties.

The new financial rules under Regulation 2018/1046 have applied to the funding of European parties and foundations only since the 2020 financial year. Until the 2019 financial year, the previous Financial Regulation 966/2012 applied, as amended through Regulation 1142/2014.⁵⁷

⁵⁶ [Regulation 2018/1046](#) on the financial rules applicable to the general budget of the Union, OJ L 193, 30.07.2018.

⁵⁷ [Regulation 1142/2014](#) amending Regulation 966/2012 as regards the financing of European political parties. OJ L 317, 4.11.2014, pp. 28-34. Implicitly repealed by the current Financial Regulation 2018/1046.

2.3.2. Delegated, implementing and other measures

In accordance with the provisions set out in Regulation 1141/2014, the following delegated and implementing measures complement the legal framework:

Commission Delegated Regulation 2015/2401⁵⁸ specifies the content and functioning of the register of European political parties and foundations, managed by the Authority. It entered into force on 8 January 2016.

Commission Implementing Regulation 2015/2246⁵⁹ lays down the details of the registration number system that applies to the register of European political parties and foundations and defines the content and format of information extracted from the register for third parties. It entered into force on 23 December 2015.

The **Decision of the Authority of 24 July 2020**⁶⁰ concerns public access to documents. It defines the conditions, limits and procedures under which the Authority grants public access to certain documents it holds.

The **Decision of the European Parliament's Bureau of 1 July 2019**⁶¹ lays down the procedures for implementing Regulation 1141/2014 on the side of the Parliament, in particular in respect of the funding practicalities. It encompasses all steps, from the call for application up to ex-post control mechanisms. Templates of funding agreements for European parties and foundations, respectively are annexed. The Bureau decision has repeatedly been adjusted, as it needs to be constantly aligned with the Party Regulation on the one hand and the EU's Financial Regulation on the other, both of which have undergone several modifications (see Table 4).

Finally, **Parliament's Rules of Procedure** include a dedicated section detailing the European Parliament's powers and responsibilities with regard to European political parties and foundations.⁶²

2.4. Applicable legal framework per financial year

Although Regulation 1141/2014 has applied since 1 January 2017, it began to apply to the funding procedure only from the 2018 financial year onwards, since the 2017 calls for applications had been published under the previous regulation. The various revisions encountered in recent years, both of the Party Regulation and the EU's Financial Regulation, led to a certain complexity in the legal framework, as it underwent modification in almost every financial year. Each of the changes also entailed an update of the implementing decision by the European Parliament's Bureau. The table below provides an overview of the applicable legal framework per year, since the 2017 financial year.

⁵⁸ Commission [delegated regulation 2015/2401](#) of 2 October 2015 on the content and functioning of the Register of European political parties and foundations, OJ L 333, 19.12.2015, pp. 50–53.

⁵⁹ Commission [implementing regulation 2015/2246](#) of 3 December 2015 on detailed provisions for the registration number system applicable to the register of European political parties and European political foundations and information provided by standard extracts from the register, OJ L 318, 4.12.2015, pp. 28–33.

⁶⁰ [OJC 258](#), 6.8.2020.

⁶¹ [OJC 249](#), 25.7.2019.

⁶² Title XII, [Rule 235](#) (edition January 2021).

Table 4 – Applicable legal framework per financial year 2017-2021

Financial year	Party Regulation	Financial Regulation	EP Bureau Decision
2021	Regulation 1141/2014, amended by Regulation 2019/493	Regulation 2018/1046	Decision of 1 July 2019
2020			
2019	Regulation 1141/2014, amended by Regulation 2018/673	Regulation 966/2012 (as amended by Regulation 1142/2014)	Decision of 28 May 2018
2018	Regulation 1141/2014		Decision of 12 June 2017
2017	Regulation 2004/2003		Decision of 29 March 2004

Source: EPRS, based on EurLex.

2.5. Preparing for the next revision: The state of play

2.5.1. The review clause

In accordance with Article 38 of Regulation 1141/2014 (as amended in 2018), the European Parliament is required to submit a report on the application of the regulation and on the activities funded by the end of 2021, and every five years thereafter, after consulting the Authority. This consultation took place on 15 June 2021. In addition, the Director of the Authority, Michael Adam, presented the body's 2019 annual report on 27 January 2021 in a meeting of the European Parliament Committee on Constitutional Affairs (AFCO).

From a Better Regulation perspective, the aforementioned review clause is particularly interesting, because it assigns the evaluation duty to the European Parliament in the first place, although it is later for the European Commission to propose amendments to the regulation if required. Against this backdrop, the AFCO committee requested authorisation to draw up an own-initiative report on 28 January 2021.⁶³ The Budgetary Control Committee (CONT) decided to submit an opinion. According to the provisional time schedule, the vote in plenary is currently envisaged for October 2021. Preparations for Parliament's evaluation have to date included two expert hearings:

- 'How to make political party and campaign financing more transparent: what rules do we need in the EU?', organised by Parliament's Special Committee on Foreign Interference in all Democratic Processes (INGE) in association with AFCO, on 23 February 2021; and
- 'The statute and funding of European political parties and foundations', held by AFCO on 25 May 2021.

Article 38 also requires the Commission to draft its own report on the application of the regulation within six months following Parliament's evaluation report, paying special attention to the regulation's implications for the position of small European political parties and European political foundations. If appropriate, that report may be accompanied by a new proposal to amend the regulation.

2.5.2. European Commission preparatory work

The European Commission has, in several instances, stressed its intention to propose a revision of Regulation 1141/2014 and, at the time of writing, it has already taken the first steps in the process of preparing the revision. When President Ursula von der Leyen revealed the political guidelines for

⁶³ Procedure reference [2021/2018\(INI\)](#).

the current Commission term in summer 2019, she announced a dedicated legislative proposal would constitute part of a European democracy action plan seeking to ensure clearer rules on the financing of European political parties.⁶⁴ In the democracy action plan, presented in December 2020, the Commission indeed committed to come forward with a new legislative proposal in the course of 2021, which should aim at:

- addressing the financing of European political parties from outside the EU;
- revising audit requirements;
- strengthening the links between European financing and national campaigns; and
- facilitating transparency and auditing.⁶⁵

The Commission's work programme for 2021 reconfirms those plans, although the envisaged schedule of the new legislative proposal – autumn 2021 – appears too ambitious in respect of the provisions set out in Article 38 of the current regulation. In a statement before the AFCO committee, the Commission reassured the committee that it would not present the new legislative proposal before Parliament has voted on its own-initiative report.⁶⁶

Most recently, it emerged that the Commission will underpin the new proposal with an ex-post evaluation of the existing act and an ex-ante impact assessment of the amending proposal, in a combined process. From a Better Regulation perspective, such an abridged process (in Commission jargon: a 'back-to-back' initiative) is typically chosen when 'political urgencies or timing constraints' do not allow for a standard process.⁶⁷ In a first step, the Commission consulted the public on the initiative, to collect input from citizens and stakeholders. The consultation was open between 17 March and 14 April 2021.

The combined **evaluation roadmap/inception impact assessment** of March 2021⁶⁸ outlines the Commission's intentions for the revision. The evaluation is set to examine the operation of the current regulation since 2017. In particular, it will look at the regulation's:

- **effectiveness** with regard to:
 - donations, in particular aspects of transparency and 'whether the provisions create a level playing field among European political parties and foundations and ensure appropriate financial resources for them';
 - gender representation;
 - transparency and visibility aspects with regard to the affiliations between national and European parties to ensure that voters can make informed choices at the ballot box for the European elections;
 - the role of the Authority with regard to imposing sanctions for breaches of the rules;
- **efficiency** in terms of enforceability;
- **relevance** in the sense that 'the evaluation will examine whether the provisions appropriately address the increased risk of indirect funding by foreign interests channelled through national means or private donations and prevent foreign interference in European elections';
- **coherence** with the current European electoral law, and with the (planned) legislative proposal on transparency of sponsored political content, in the context of the European democracy action

⁶⁴ Ursula von der Leyen, [A Union that strives for more. My agenda for Europe](#). Political guidelines for the next European Commission 2019-2024, July 2019. See in particular Chapter 6: A new push for European democracy, subheading 'Protecting our democracy'.

⁶⁵ European Commission, Communication on the European democracy action plan, [COM\(2020\) 790](#), pp. 5-6.

⁶⁶ AFCO meeting of 17 March 2021, first exchange of view on the report in question.

⁶⁷ European Commission, Better Regulation Toolbox, [tool #7](#).

⁶⁸ European Commission, [Combined evaluation roadmap and inception impact assessment](#), 22.03.2021.

plan. Coherence with the Electoral Act is particularly relevant for Parliament, as the AFCE committee is currently drawing up a report aiming at electoral reform.⁶⁹

Pending the outcome of the impact assessment and stakeholder consultation, the revision will either be narrow in scope and focus on tightening the funding provisions of the regulation to increase transparency with regard to indirect funding from third countries and to reduce the risk of foreign interference. Alternatively, it will take a broader approach, to 'further enhance the European dimension' of the European Parliament elections and to address 'loopholes not yet covered by the two previous amendments'. Under the latter option, the new proposal would seek to enhance the rules regarding transparency, sanctions and enforcement.

In any case, the new regulation would ideally be in place in early 2023, well ahead of the 2024 European elections, so that they would be applicable already to the 2024 financial year.

⁶⁹ European Parliament, Report on the reform of the electoral law of the European Union, procedure reference [2020/2220\(INL\)](#), Rapporteur: Domènec Ruiz Devesa (S&D, Spain). The [draft report](#) was presented at the beginning of June 2021.

3. Application of Regulation 1141/2014

3.1. Compliance with the registration criteria

3.1.1. The quantitative effect of adjusting the registration requirements

Increase of European parties under Regulation 2004/2003

The main purpose of the 2004 legal framework was to introduce a system of public party funding in order to enhance European democracy. Creating a setting favourable to the development of European political parties was believed could support European integration and help overcome the EU's democratic deficit, which had marked the public discourse since the 1980s.⁷⁰ In that respect, European parties were meant to contribute to creating a European public space through political debate. Public funding should give them financial autonomy, notably from the political groups within the European Parliament.

Following the adoption of the first Party Regulation in 2004, a number of transnational political alliances sought recognition as European political parties in order to gain access to EU funding.⁷¹ They came from across the political spectrum: mainstream and radical; pro-European and Eurosceptic. In quantitative terms, a peak was reached in 2015-2016, when as many as 16 European political parties and 15 European political foundations applied for EU funding.

Nevertheless, from 2011 onwards, the party system was characterised by 'a certain degree of volatility'.⁷² A new phenomenon was observed, namely European parties composed of a few Eurosceptic national parties and otherwise individual politicians. Several parties formed and then dissolved; national parties changed their affiliation from one year to the next; individual national parliamentarians or Members of the European Parliament were members of a different European party to their national party or, in some cases, of more than one European political party.⁷³ In fact, this 'proliferation of small right-wing parties in ever changing permutations'⁷⁴ used legal grey zones to qualify for EU funding. Academics observed that some of the proponents behind these Eurosceptic European parties were precisely those groups and Members who had formerly spoken out against party funding in European Parliament debates, which suggests that their motivation for forming European parties was driven less by ideology than by pragmatic reasons.⁷⁵

Decreasing numbers under Regulations 1141/2014 and 2018/673

The trend and practices depicted above gave rise to concern and eventually prompted an overhaul of the original Party Regulation 2004/2003. When Regulation 1141/2014 became applicable in 2017, one immediate effect of the tightened registration requirements was a noticeable decrease in European parties and foundations, because some of them no longer fulfilled the registration conditions set out in Regulation 1141/2014. Consequently, the number of European political parties dropped from 16 to 12, and that of foundations from 15 to 11.

⁷⁰ e.g. European Parliament, Tsatsos report (1996); Wolfs and Smulders, pp. 185-187.

⁷¹ The first European parties that formed in the aftermath of regulation 2004/2003 were the European Left, the European Democratic Party, and the Alliance of a Europe of Nations.

⁷² Wolfs and Smulders, pp. 196-197.

⁷³ Idem.

⁷⁴ R. Corbett, F. Jacobs and D. Neville, *The European Parliament*, John Harper, 9th edition 2016, p. 148.

⁷⁵ Wolfs and Smulders argue that Eurosceptics created European political parties 'to attract funding to form a counterweight for the traditional pro-European parties', p. 197.

Nonetheless, certain malpractice continued until amending Regulation 2018/673 established that forming a European political party was the prerogative of **parties**. This put an end to the practice of individual parliamentarians sponsoring the registration of a European party in the absence of a national party. Moreover, as explained above in Chapter 2.2.1., the amendment banned multi-party membership (i.e. the artificial creation of several European political parties with similar or identical tendencies by one and the same national party).⁷⁶

Following the entry into force of the 2018 amendment, all political parties and foundations, including those that had already obtained recognition for funding purposes under the former rules, had to provide proof that they would also satisfy the new registration conditions. The Authority decided on the status of the applicants once it had verified all documents submitted. Pursuant to Article 40a of the regulation, a party's failure to meet the conditions would lead to its removal from the register. As a consequence, the party would lose its European legal personality and, as a result, its eligibility for EU funding.

Exactly that scenario happened to two European political parties and one foundation: the Alliance of European National Movements;⁷⁷ and the 'Alliance for Peace and Freedom', together with its foundation 'Europa Terra Nostra'.⁷⁸ In addition, the Authority rejected the re-registration request for another foundation, 'Identity and Traditions of Europe', for formal reasons, because at the time of the application the associated party (the 'Alliance of European National Movements') had already been removed from the register.⁷⁹

In sum, the stringent registration requirements of the 2018 revision brought the number of recognised European political parties and foundations down to 10 of each. No further changes have occurred since, therefore, at present, the same 20 parties and foundations remain registered. In the course of 2020, the Authority rejected two newly filed registration requests, as the applicants failed to meet the minimum registration criteria.⁸⁰

The table below lists all currently registered European political parties, together with their foundations.

⁷⁶ Regulation 2018/673, Recital 4.

⁷⁷ Decision of 29 August 2018.

⁷⁸ [Decision](#) of 3 September 2018 and 13 September 2018, respectively. See also [press release](#) of the Authority, 27.09.2018.

⁷⁹ For more detail, see G. Grasso and R. Perrone, '[European political parties and the respect for the values on which the European Union is founded between the European legislation and the national laws](#)', *European public law*, Vol. 25(4), 2019, p. 673.

⁸⁰ [Decision](#) of the Authority of 2 September 2020 not to register European Alliance for Freedom and Democracy ASBL; [Decision](#) of the Authority of 26 November 2020 not to register Alliance for Peace and Freedom ASBL.

Table 5 – Currently registered European parties and foundations

Name of European party	Acronym	Affiliated foundation	Acronym
European People's Party	EPP	Wilfried Martens Centre for European Studies	WMCES
Party of European Socialists	PES	Foundation for European Progressive Studies	EFPS
Alliance of Liberals and Democrats for Europe Party	ALDE	European Liberal Forum	ELF
Identity and Democracy Party	ID	Identity and Democracy Foundation	ID
European Green Party	EGP	Green European Foundation	GEF
European Conservatives and Reformists Party	ECR	New Direction – The Foundation for European Reform	
Party of the European Left	EL	Transform Europe	
European Democratic Party	EDP	Institute of European Democrats	IED
European Free Alliance	EFA	Coppieters Foundation	
European Christian Political Movement	ECPM	Sallux (formerly: European Christian Political Foundation)	

Source: [Authority](#).

Notwithstanding these changes, and as already mentioned, verification of parties' compliance with the registration conditions is a permanent and continuous task carried out by the Authority throughout the year. Enhanced checks are undertaken around the time of Member States' national elections, and following European political parties' annual submission of an updated list indicating their member parties.

It has been observed that the current legal framework, which is tailored to 'parties of parties', does not allow for recognition of transnational political movements with individual mass membership. Moreover, the criterion of geographical representation (seven Member States clause) was deemed to be high for new applicants.⁸¹ However, it should be noted that in order to satisfy the representational threshold, members do not necessarily have to be elected to the national parliament, as the regional level is also taken into account. Under Article 2(1) of Regulation 1141/2014, a political party is defined as an association of citizens that pursues political objectives and 'which is either recognised by, or established in accordance with, the legal order of at least one Member State'. In this context, it is worthwhile noting that the legal conditions for forming a party and the thresholds for representation of parties in parliament vary significantly from one Member State to the other.

⁸¹ e.g. Volt Europa, [Contribution](#) to the European Commission's public consultation on the roadmap for revising Regulation 1141/2014, 14.4.2021.

3.1.2. The compliance mechanism regarding EU values

As shown above, in the past, the Authority has used its vested power to deny registration or remove parties and foundations from the register in case they fail to meet the requirements. However, this is true only for the **formal requirements** spelled out in Article 3 of Regulation 1141/2014. Another specific requirement deserves close attention, namely parties' adherence to the **EU's fundamental values**. In this area, the Authority's powers are much more restricted.

European political parties and foundations must observe, in particular in their programme and activities, 'the values on which the Union is founded, as expressed in Article 2 TEU, 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'. In other words, parties and foundations are only entitled to EU funding if (and as long as) they comply with Article 2. For an initial compliance check, the Authority merely formally verifies whether the party or foundation has duly completed the corresponding self-declaration.

Should a registered party or foundation be suspected of a manifest and serious breach of the EU's fundamental values, the regulation envisages a verification procedure encompassing multiple stages. The procedure is designed so that a preliminary administrative decision by the Authority undergoes political scrutiny by the Council and the Parliament.

The Authority itself is not mandated to initiate a verification procedure. Instead, it needs to turn to the European Commission, Parliament and the Council. Once the procedure is lodged, the Authority needs to consult the independent committee of eminent persons, in a first step. This advisory committee was established for precisely that purpose under Article 11 of the regulation. The committee's opinion 'shall give full consideration to the fundamental right of freedom of association and to the need to ensure pluralism of political parties in Europe'. On the basis of the committee's (non-binding) opinion, the Authority decides whether the party or foundation in question should be removed from the register. However, the Authority's decision constitutes merely the end of the **administrative** procedure; a **political** procedure is yet to follow.

Both the European Parliament and the Council have the power to veto any Authority decision to deregister a party or foundation on the grounds of non-compliance with the EU's fundamental values, by raising objections in accordance with their internal decision-making rules. In the case of the Parliament, these internal procedures are laid down in Rule 235(4) of the Rules of Procedure. A deregistration decision by the Authority is only upheld if neither Parliament nor the Council raise objections. The current procedure is designed so that a party's de-registration on grounds of a breach of values ultimately becomes a political decision (rather than an administrative one). Academic research deems this procedure 'too complex and intricate', suggesting that Regulation 1141/2014 failed to give the Authority 'a real power over the ultimate outcome of the procedure'.⁸²

The request to launch the verification procedure must come from the European Parliament, the Council, the European Commission or the Member State where the party/foundation has its seat.⁸³ For instance, the European Parliament may request to lodge the procedure under its own initiative, or following a reasoned request from a group of at least 50 citizens, provided the President of the European Parliament deems the request admissible.⁸⁴ Up until now, the values compliance

⁸² Grasso and Perrone, pp. 679 and 687.

⁸³ On the question of non-compliance with Member States' requirements, see Grasso and Perrone, pp. 681-686.

⁸⁴ European Parliament, Rules of Procedure, rule 235(2) and (3).

procedure, which has been in place since 2017, **has never been triggered**,⁸⁵ despite concerns regarding backsliding developments in some Member States regarding values and the rule of law.

Although the regulation includes a firm commitment to party pluralism and freedom of association, the values compliance mechanism stirred a **controversial debate** as to whether it could be perceived as primarily targeting right-wing populist parties.⁸⁶ Concerns along these lines had already been voiced during the negotiations on Regulation 2004/2003. In light of these discussions, academic John Morijn (University of Groningen) argues that the verification procedure has inherent limitations in its design, as it targets illiberal European political parties as a whole, rather than individual illiberal parties that are component members of a European party.⁸⁷

The European Commission's 2019 communication on the rule of law indicated that European political parties have begun to reflect on 'whether parties which challenge the rule of law and common EU values should be excluded' from European parties.⁸⁸ In this respect, the communication calls on European political parties to ensure that their national members pay due regard to the respect of the rule of law.⁸⁹

3.2. Funding of European parties and foundations

Public funding is considerably the most important source of income for European political parties and foundations, but as explained, a certain percentage must also be raised from private sources. This chapter discusses how EU funding has evolved since 2004; the effect of the distribution key (i.e. the formula on which the distribution of the EU funds is based); and issues related to parties' and foundations' efforts to secure a sufficient level of own resources.

3.2.1. EU funding levels over time

European political parties have been entitled to annual funding from the EU budget since 2004, and their associated foundations since 2007. Technically, the funding is part of the administrative expenditure of the European Parliament (budget items 4 0 2 and 4 0 3).

As Figure 3 illustrates, the total amount of EU funding for European parties has significantly increased over time, from an initial €6.5 million in 2004, to €46 million in 2021. The funding reached a peak in the 2019 election year, when an envelope of €50 million was earmarked for European parties.⁹⁰ The following year saw the first ever decrease, whereas for 2021, the trend again reversed.

⁸⁵ A different, simpler procedure to verify a European party's compliance with EU values existed under the former Party Regulation 2004/2003, entrusting the examination to the European Parliament. This procedure was launched for the first time in 2013, against two (formerly recognised) European parties (European Alliance of National Movements and the European Alliance for Freedom). The procedure was closed because the competent committee (AFCO) found it had not enough evidence to come to an assessment. See minutes of the Conference of Presidents, 10 October 2013. Another investigation against the far-right party Alliance for Peace and Freedom was carried out in 2016, see European Parliament [press release](#), 12 May 2016. The representatives of the party were heard by AFCO in February 2017, however, in this case, the Committee of Independent Eminent Persons never submitted their opinion, as its mandate under the previous Regulation 2004/2003 had expired. Cases described in Grasso and Perrone, p. 681.

⁸⁶ For an in-depth discussion of the values compliance mechanism see J. Morijn, '[Responding to 'populist' politics at EU level: Regulation 1141/2014 and beyond](#)', *International Journal of Constitutional Law*, Vol. 17(2), 2019, pp. 617–640.

⁸⁷ Morijn, Responding to 'populist' politics, pp. 634–635.

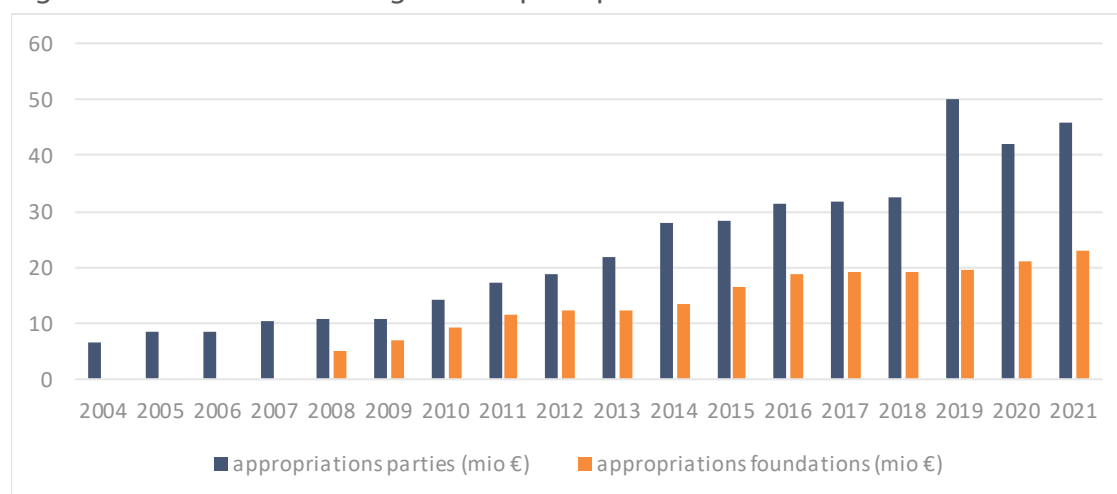
⁸⁸ [COM\(2019\) 343](#), Strengthening the rule of law within the Union: A blueprint for action, p. 2.

⁸⁹ *Idem.*, p. 12.

⁹⁰ The effective outturn was eventually slightly lower, namely €47.5 million.

Similarly, the budget allocation for European foundations encountered a steady upwards trend, from €5 million in 2008, to €23 million in 2021. On average, the appropriations reserved for foundations amount to half of those for parties.

Figure 3 – Level of EU funding for European parties and foundations



Source: EPRS, based on [Eurlex](#).

3.2.2. Maximum funding amounts for 2021

The annual budget amount is distributed to eligible parties in two steps: 10% of the total sum is distributed in equal shares, while the remaining 90% is divided in proportion to the number of Members of the European Parliament affiliated to a party.

For the budget allocation for 2021 – totalling €46 million – the 10 parties eligible for EU funding receive each a lump sum of 1%, i.e. €460 000. The lion's share of 90% – amounting to maximum €41.4 million in 2021 – is distributed to the parties according to their representation in the European Parliament. As of September 2020, the reference date for funding attribution, 607 Members of the European Parliament were members of a European political party.⁹¹ Membership varies substantially, ranging from 174 Members of the European Parliament currently representing the largest European political party, the European People's Party (EPP), to 4 Members supporting the smallest party, the European Christian Political Movement (ECPM).

In the current system, the determination of the maximum contribution awarded to a European political party depends on a number of factors:

- the total funding amount set out in the EU's general budget;
- the number of registered parties applying for funding;
- the Members of the European Parliament affiliated to European political parties (individual Members per party and the collective total); the current minimum threshold is set at one Member;
- the distribution key;
- and the funding amount for which the party has applied.

⁹¹ 607 of 705 Members of the European Parliament (post-Brexit number of seats). This list, provided by Parliament's Directorate-General for Finance (DG FINS), served as the basis for the calculation of the 2021 contributions to European parties and grants to European foundations.

Following consideration of these factors, the maximum contribution to be awarded to European political parties for the 2021 financial year amounts to €43.4 million (instead of the €46 million earmarked). As for European political foundations, the maximum grants awarded to them are calculated in analogy. Table 6 lists the maximum funding per party.

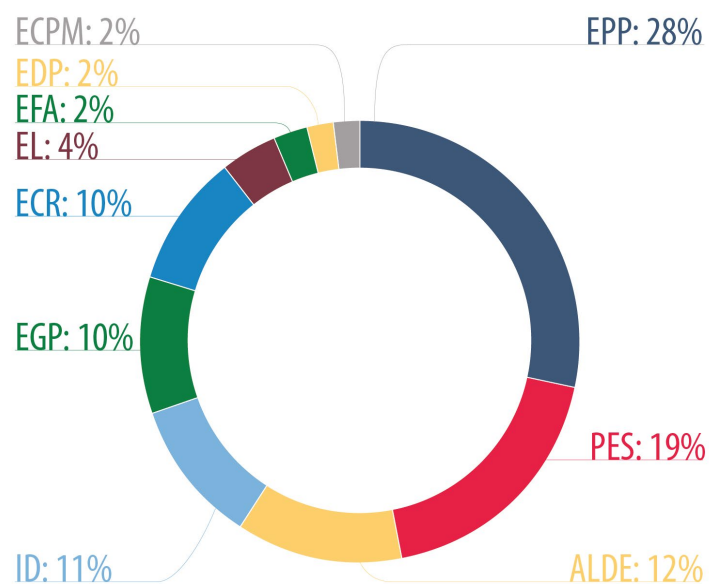
Table 6 – Maximum EU funding awarded to European parties and foundations in 2021

European party	Maximum contribution awarded (€ million)	Number of Members of the European Parliament affiliated	European foundation	Maximum grant awarded (€ million)
European People's Party (EPP)	12.3	174	Wilfried Martens Centre for European Studies	6.2
Party of European Socialists (PES)	8.1	139	Foundation for European Progressive Studies	5
Alliance of Liberals and Democrats for Europe Party (ALDE)	5.3	71	European Liberal Forum (ELF)	2.7
Identity and Democracy Party (ID)	4.6	61	Identity and Democracy Foundation	2.3
European Green Party (EGP)	4.3	57	Green Europe Foundation	2.2
European Conservatives and Reformists Party (ECR)	4.1	54	New Direction – Foundation for European Reform	2.1
Party of the European Left (EL)	1.8	29	Transform Europe	1.2
European Free Alliance (EFA)	1.1	9	Coppieters Foundation	0.5
European Democratic Party (EDP)	0.9	9	Institute of European Democrats	0.5
European Christian Political Movement (ECPM)	0.7	4	Sallux	0.4
total	43.4	607		23

Source: European Parliament, DG FINS.

Although the lump sum (i.e. the 10 % disbursed in equal shares) ensures that smaller parties which are represented in Parliament with only a few Members have a certain minimum income to run their operations, the current distribution key of the split-envelope system is said to favour bigger parties. Under the current rules, the two biggest parties receive nearly half of the total budget allocations.⁹² (See Figure 4 for 2021 budget year.)⁹³

Figure 4 – Percentage of European Parliament funding per European party (2021)



Note: European People's Party (EPP), Party of European Socialists (PES), Alliance of Liberals and Democrats for Europe Party (ALDE), Identity and Democracy Party (ID), European Green Party (EGP), European Conservatives and Reformists Party (ECR), Party of the European Left (EL), European Free Alliance (EFA), European Democratic Party (EDP), European Christian Political Movement (ECPM)

Source: EPRS, based on data from the European Parliament, DG FINS.

Distribution key under discussion

Prior to the 2018 amendment of Regulation 1141/2014, EU funding was disbursed according to a distribution key of 15:85. This key had been more advantageous for smaller parties. The current key of 10:90, introduced in 2018, was a compromise achieved during the negotiations; initially, the Commission had proposed a key of 5:95, arguing it would lead to a better reflection of electoral representation in Parliament.⁹⁴

⁹² For a historical overview of the allocation of funds per European political party and foundation since 2004, see European Parliament, [Funding from the European Parliament to European political parties per party and per year](#), DG FINS, 2021.

⁹³ This graph is based on the calculated maximum funding ('appropriations'). The final funding disbursed ('outturn') may be slightly lower. Full transparency on the funding amounts for individual European political parties and foundations is ensured via the European Parliament's annual report. See here the report for 2021 for [parties](#) and [foundations](#).

⁹⁴ COM(2017) 481, explanatory memorandum, p. 5.

Views are divided on the design of the distribution key. Under the current system, the 90 % share is allocated according to the electoral representation of European parties in the European Parliament, hence the level of the fixed share is a major budget factor for smaller parties that are represented by only a few Members. Ultimately, it is a matter of political choice whether EU party funding is disbursed in proportion to the election results, as the Commission proposal maintained, or whether it should rather promote creating 'a level playing field between parties', as a recent ideas paper argues.⁹⁵ This paper proposed increasing the lump sum to as much as 20 or 25 %, in order to alleviate the financial situation of smaller and newer parties. In much the same vein, the Coppieters Foundation, which is the political foundation of the European Free Alliance – a European party made up of various regionalist, separatist and ethnic minority parties across Europe – suggested to raise the key to 10-15 % for foundations, to promote party pluralism and ensure that 'all political ideas have an opportunity to operate and develop', which would be particularly important for the representation of structural minorities in Europe.⁹⁶ Another study suggested granting newly established parties a higher lump sum in the beginning, for a limited period of time.⁹⁷

Eligibility criteria: Representation in Parliament

Under the current rules, a European political party is eligible for EU funding on condition that it is represented by at least one Member holding a seat in the European Parliament. This funding criterion has been contested ever since, including within Parliament, as is apparent from various committee and plenary debates. Some political groups in Parliament find the threshold too low and push for an increase to, for instance, three Members, arguing 'one-man parties' would not express the political will of EU citizens. Conversely, other groups reject any change, maintaining this could eliminate smaller parties; the registration requirements would anyway already ensure the party's support through citizens in at least seven EU Member States.

The 2011 Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Guidelines on political party regulation⁹⁸ state that high thresholds for public funding 'may be detrimental to political pluralism and small political parties', arguing that having 'a lower threshold for public funding than the electoral threshold for the allocation of a mandate in parliament' would boost political pluralism. In a similar vein, the European Commission appears reluctant to changing the current system, raising concerns that this might 'unduly limit the pluralistic nature of European politics'.⁹⁹ In addition, former European Commissioner Julian King emphasised the principles of proportionality and equal treatment, arguing 'the rules on party funding should not tilt the balance in favour of incumbents, compared with new political movements'.¹⁰⁰

The EESC would favour an entirely different system, arguing that the current representation criterion of one Member of the European Parliament would not be 'appropriate given that voting procedures – and thus the conditions for success – vary widely between Member States'.¹⁰¹ Instead, it suggested, as an alternative threshold, the requirement that a European political party should

⁹⁵ Louis Drounau, [A smarter funding system for European parties](#), Österreichische Gesellschaft für Europapolitik, ÖGfE Policy Brief 01/202, p. 7.

⁹⁶ Coppieters Foundation, [Contribution](#) to the European Commission's public consultation on the roadmap for revising regulation 1141/2014, 22.3.2021.

⁹⁷ Van Hacked [et al.], p. 45.

⁹⁸ OSCE Office for Democratic Institutions and Human Rights (ODIHR), [Guidelines on Political Party Regulation](#), adopted by the Venice Commission on 15-16 October 2010, para. 185.

⁹⁹ COM(2017) 481, p. 5.

¹⁰⁰ Then-Commissioner Julian King in the [plenary debate](#) of 15 March 2017.

¹⁰¹ EESC, [Opinion SC/036](#) on the funding of European political parties, 13 February 2013, points 4.1 and 4.2.

have obtained at least one million votes across at least seven countries at the last European elections, thereby taking inspiration from the threshold established for European Citizens' Initiatives.¹⁰²

In current practice, however, even the least represented European political party eligible for EU funding – the European Christian Political Movement – is represented by four Members.

3.2.3. Level of co-financing

Public funding is by far the most important source of income for European political parties and foundations. However, to qualify for funding from the EU budget, parties and foundations must generate some of their income from private sources. The rationale behind the requirement to secure own resources is twofold: first, raising private funds avoids exclusive reliance on public funding; and second, it brings European parties closer to their member parties and citizens.

Under the current legal framework, the required level of own resources – also referred to as co-financing threshold – is set at 10 % for European parties and 5 % for foundations. This threshold has been adjusted twice in the past. While the first Party Regulation 2004/2003 stipulated that EU funding should not exceed 75 % of a party's annual budget, thus obliging parties to collect 25 % on their own, the 2007 amendment lowered the co-funding threshold to 15 %. However, practically all parties and foundations have encountered difficulties to reach the threshold in the past, as the European Parliament's Director-General for Finances stated in 2017,¹⁰³ with three political foundations going into liquidation.¹⁰⁴ Against this background, the 2018 amendment brought the threshold down to 10 % for parties and 5 % for foundations. Nonetheless, it appears that parties continue to struggle to acquire the necessary level of own resources, especially smaller ones with few member parties.

Table 7 – Co-funding requirements over time

Legal basis	Maximum EU funding		Required own resources	
	parties	foundations	parties	foundations
Regulation 2004/2003	75 %	n/a	25 %	n/a
2007 amendment and Regulation 1141/2014	85 %		15 %	
2018 amendment	90 %	95 %	10 %	5 %

Source: EPRS based on Eurlex data.

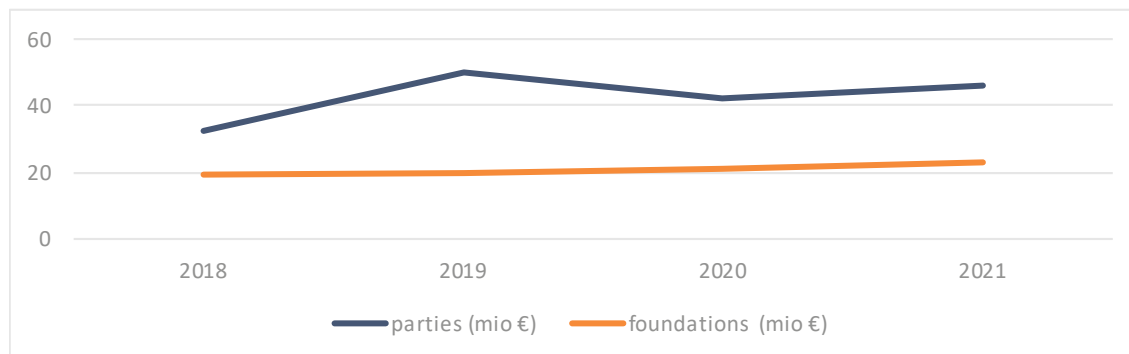
Typically, larger parties with many members would have a steady income from membership fees. However, any increase in public funding obliges parties and foundations to collect more own resources proportionally. Therefore, keeping pace with the rise in EU funds over the last years has proved challenging even for larger parties. Since the 2018 financial year, the total amount of EU funding has risen from €32.5 million in 2018, to €46 million in 2021 (i.e. 41 %) for European parties. The 2019 election year saw an all-time high level of funding at €50 million. For foundations, the increase was slightly more moderate at 19 % (from €19.3 million in 2018, to €23 million).

¹⁰² See [Regulation 2019/788](#) of 17 April 2019 on the European citizens' initiative.

¹⁰³ Didier Klethi, the European Parliament's Director-General for Finances, in an AFCO meeting, 12.7.2017.

¹⁰⁴ EU Observer, [New EU party finance rules short circuit accountability](#), 19 April 2018.

Figure 5 – Increase in EU funding for European parties and foundations (since 2018)



Source: EPRS, based on [Eurlex](#).

In practice, the co-funding threshold can put parties under strain: if they fail to collect sufficient own resources, they automatically receive less public funding, as the amount of EU funding is lowered until it corresponds to 90 % of the total expenditure (95 % for foundations).¹⁰⁵ Against this backdrop, parties have previously sought creative solutions, leading to 'questionable practices', as the European Court of Auditors observed, such as loans at advantageous conditions to finance parties' operational activities or contributions in kind, the value of which was difficult to assess.¹⁰⁶ Parliament's financial services also confirmed abuses and challenges linked to contributions in kind.¹⁰⁷ Other dubious practices uncovered were linked to conflicts of interest and retrospectively paid commissions.

From a case brought before the ECJ (T-118/17, *IDDE v Parliament*) it emerged that a European foundation circumvented the rules on co-financing through a system that awarded contracts against donations, in order to meet the own-resources threshold. This case is discussed in greater detail in Chapter 3.2.8.

Regarding the amount a European party can raise in own resources, the ceilings for contributions and donations differ. While for donations an individual cap applies (€18 000 per year and per donor), the ceiling applicable to the entirety of contributions from members is set at 40 % of the European party's annual budget (Article 20(7)).¹⁰⁸

Also with regard to parties' own resources; that the EU system, contrary to some national systems, does not incentivise parties to raise own resources, has been criticised.¹⁰⁹ For instance, Germany and the Netherlands operate reward systems, where every euro a party raises from private sources is topped up by a pre-defined amount from the public purse.

¹⁰⁵ Wolfs and Smulders, p. 198.

¹⁰⁶ ECA, Opinion 5/2017, para. 11 and 12.

¹⁰⁷ D. Klethi, the European Parliament's Director-General for Finances, in an AFCO meeting, 12.7.2017.

¹⁰⁸ The 40 % ceiling applies in analogy also to foundations.

¹⁰⁹ Drounau, p. 9. The author provides the example of Germany, where parties obtain a bonus (i.e. a lump sum of €0.45) for every euro raised.

3.2.4. Donations, contributions and membership-related questions

Donations and contributions

Focusing on parties' own resources, the regulation governs contributions and donations only. **Other sources of income** also exist, but they are not covered as a separate category in the current legal framework. These include, for instance, participation fees for events and training, project contributions, the sale of books and other publications, consulting operations, legacies, or similar. Quantitatively, and compared to contributions and donations, these sources appear to play a minor role in parties' accounts.

According to the definition provided in Article 2(7) and (8), contributions are to be understood as payments from members, whereas donations originate from non-members. This delineation appears unambiguous in theory, however, certain grey zones emerge in the practical application, especially with regard to payments from third countries.

Judging from European parties' financial statements for the 2019 financial year, the predominant category of own resources are contributions received from national member parties.¹¹⁰ This matches with the conceptualisation of European political parties as 'parties of parties'. In comparison, only few parties generate noteworthy income from individual membership fees.¹¹¹ While **individual membership (of natural persons)** has been admissible since 2007¹¹² – and most European parties have indeed extended membership to individuals in their statutes, albeit under greatly varying terms and conditions¹¹³ – it has never become a mass phenomenon. The Alliance of Liberals and Democrats for Europe Party (ALDE) appears to be the only European political party that is actively promoting individual membership, in an endeavour to develop 'from a network of liberal parties into a fully-fledged European political party'.¹¹⁴ The table below illustrates how marginal individual membership is for most European parties, according to parties' self-reported data, compiled by the Authority.

¹¹⁰ This is true for all but one of the 10 currently registered parties: the European Christian Political Movement acquires a higher amount in donations than in membership contributions.

¹¹¹ For this chapter, two types of documents were examined, both for 2019, which is the latest available financial year: 1) the financial statements of all European parties and foundations; and 2) the list of contributions and donations, as compiled by the Authority. The former are available on a dedicated European Parliament [webpage](#), and the latter on the Authority's [website](#). However, 2019 may not be entirely representative, as it was an election year.

¹¹² Article 6(3) of Regulation 1524/2007 amending Regulation 2004/2003. A list of the number of individual members per European political party is provided on Parliament's [website](#), in accordance with Article 32(2).

¹¹³ I. Hertner, 'United in diversity? Europarties and their individual members' rights', *Journal of European integration*, Vol. 41(4), pp. 497-498.

¹¹⁴ Hertner, p. 492.

Table 8 – Number of individual members per European political party (as per May 2020)

European political party	Number of individual members
Alliance of Liberals and Democrats for Europe Party (ALDE)	1 340
Party of the European Left (EL)	410
European Conservatives and Reformists Party (ECR)	55
European Green Party (EGP)	55
European Christian Political Movement (ECPM)	35
European People's Party (EPP)	16
European Democratic Party (EDP)	3
European Free Alliance (EFA)	3
Identity and Democracy Party (ID)	3
Party of European Socialists (PES)	0

Source: [European Parliament](#).

Under Article 20(9) of Regulation 1141/2014, contributions by individual members of parties or foundations are allowed, up to an annual total of €18 000 per member, but – contrary to contributions from legal persons and donations from individuals – disclosure of the member's identity is not required. This has been flagged in a recent European Parliament committee hearing as a loophole in the current regulation that could be used by intermediaries to circumvent the transparency requirements applicable to donations by funnelling donations into a European party under the guise of individual contributions.¹¹⁵ In this context, it was also stated that it is difficult to assess whether all contributors pay on their own behalf.

Compared to contributions, the level of donations was generally low in the 2019 financial year, which is somewhat surprising for an election year. Larger parties with high numbers of fee-paying member parties appear especially able to secure sufficient funds through members' contributions and depend less (or not at all) on donations to match the threshold for EU grants. Only the accounts of two European parties showed a significant income from donations: the European Christian Political Movement (ECPM) and the European Conservatives and Reformists Party (ECR). Conversely, three parties declared not to have received any donations in 2019, and the accounts of three further parties listed donations of a low total value (under €3 000). Turning to foundations, contributions by member associations constituted the largest part of the foundations' own resources, although for most foundations (including also some larger ones), donations also appeared to be an important source of income. Three foundations declared not to have received any donations.

As a general observation, the published financial statements and accounts of parties and foundations lack granularity with regard to contributions and donations, and the use of these two income categories seems blurred in some cases (e.g. payments by members are listed under donations instead of contributions). In addition, for quite a number of parties and foundations, the amounts listed in the 2019 financial statements under 'revenues' differed from the amounts figuring in the detailed list of contributions and donations that the Authority compiles (which is based on

¹¹⁵ Issue raised by Michael Adam, Director of the Authority, in a hearing of the European Parliament's Special Committee on Foreign Interference (INGE), 23.2.2021.

notifications by parties and foundations). This is likely linked to the way financial data are reported (i.e. the criteria for and the time of booking revenues).

Categories of membership

The fuzzy delineation between contributions and donations might be related to an unclear definition of membership in parties' statutes. Article 4(2) of the Party Regulation concedes that parties may have different types of membership, as long as they define them in their statutes, and provided the statutes comply with the applicable law of the Member State in which they have their seat (Article 4(1)), which is Belgium, for the majority of these parties and foundations.¹¹⁶ Moreover, in accordance with the principle of the primacy of EU law, membership categories must also comply with the party regulation.

Trying to understand the multitude of membership categories is a daunting task, as terminology and definition varies considerably across parties. Terms used include: ordinary members, full members, associated members, affiliate members, observer members, candidate members, supporting members, individual members, member associations etc., and the exact meaning of these membership categories may alter from one party to another. For instance, some European parties limit full membership to national party members from within the EU, while others also allow parties from third countries to acquire full membership. The different membership categories have implications for the membership fees that European political parties receive from their members, as the party statutes tend to attach different fee obligations to the different membership types.

Third-country party membership: ECJ ruling of November 2020

While the regulation strictly forbids donations originating from third countries, it is silent on the legality of the contributions parties and foundations receive from their members in non-EU countries. Given the traditional – and legitimate – interest of parties and foundations to maintain close ties with like-minded partner organisations in other European countries (in particular in the Western Balkans, the European Neighbourhood and the European Economic Area),¹¹⁷ and even beyond Europe, their statutes generally allow for membership from outside the EU. Until the entry into force of Regulation 1141/2014, it was common practice for non-EU members to contribute membership fees to the revenues of European political parties.

Most recently, the **European Court of Justice judgment issued on 25 November 2020 in Case T-107/19, ACRE v Parliament**¹¹⁸ has contributed to clarifying the question as to how far contributions from members outside the EU are admissible. In a nutshell, this ECJ ruling is remarkable, as it interprets the Party Regulation in a restrictive manner, so that contributions from third country members are to be considered as donations. In the case in point, the European political party the Alliance of Conservatives and Reformists in Europe (ACRE) challenged Parliament's decision regarding the party's expenditure and accounts for the 2017 financial year. The Court explored, inter alia, whether a payment of a substantial amount that ACRE had received from one of

¹¹⁶ Only two European parties and three foundations have their seat in Member States other than Belgium, namely: the Identity and Democracy Party, and its affiliated foundation Association pour l'Identité et Démocratie Fondation (both based in France); European Christian Political Movement, and its affiliated foundation Sallux (both based in the Netherlands); and the Green European Foundation (Luxembourg).

¹¹⁷ On the role of European political parties as foreign policy actors see 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(1), 2021, pp. 77-93.

¹¹⁸ ECJ Case T-107/19 *Alliance of Conservatives and Reformists in Europe (ACRE) v Parliament*, [judgment](#) of the General Court issued on 25 November 2020, para. 150-175.

its non-EU member parties – Armenia, in the case in question – was to be considered a contribution or a donation.

Given that these proceedings referred to the 2017 financial year, the applicable legal framework was the first Party Regulation 2004/2003. This is important to note, since, contrary to the current Regulation 1141/2014, the former regulation did not in principle prohibit donations from abroad, but set a general ceiling for donations at €12 000. (Under the current regulation, donations are capped at €18 000 and prohibited if originating from outside the EU). The Court reasoned that the Armenian party 'was not a 'political party' within the meaning' of Regulation 2004/2003, since, 'in order to be classified as a 'political party', it would need to be 'recognised by, or established in accordance with, the legal order of at least one Member State'. The Court therefore concluded that the payment from the Armenian party 'did not constitute an eligible contribution', thereby following Parliament's argument to reclassify the contribution as a donation. It then ordered ACRE to repay the difference between the donation and the €12 000 permitted, to the Armenian party.

ACRE further claimed that Parliament's decision would be discriminatory in the light of foreign contributions paid to a European political foundation likewise exceeding the threshold of €12 000. On this point the Court also followed Parliament's argumentation that 'the rules applicable to donations or contributions to foundations are more permissive than those applicable to parties', and that 'consequently, the administration monitors political parties at European level to a greater extent in so far as the latter are at the forefront of the political activities'.

The Court's judgment in case T-107/19 raises concerns, since European political parties have a legitimate interest in maintaining strong relationships with their like-minded partners outside the EU. Therefore, when the European Parliament adopted its resolution on stocktaking following the European elections the day after the General Court's ruling in the case in question, it included a political statement concerning membership contributions from third countries, recommending 'that membership fees from parties from Council of Europe countries could be allowed with a view to fostering pan-European political bonds, provided that this takes place within a framework of enhanced transparency'.¹¹⁹ Given the tension between the ECJ ruling and the declared need for European parties to maintain close links with national parties from countries outside the EU – post-Brexit, this includes national parties from the United Kingdom – the forthcoming revision of the party framework might add clarification on this point. In any case, the ECJ ruling did not question the need for European parties to have close links with parties outside the EU; it merely interpreted the question of the membership payments.

3.2.5. Loans

In a 2017 AFCO committee meeting, the European Parliament's Director-General for Finance testified that annual audits had shown that European political parties and foundations were increasingly taking out loans to reach the own-resources requirements. This could consequently entail a risk of bankruptcy for some parties and foundations.¹²⁰ Since the financial year 2018 - first year of application of Regulation 1141/2014 - parties and foundations receive pre-financing of 100 % (before: 80 %). In addition, the 2018 amendment of the regulation resulted in higher Union funding rates of eligible expenditure (in place from financial year 2019), namely 90 % for parties and 95 % for foundations (instead of 85 % for both parties and foundations). Both measures reduced financing needs from other sources; however, they could only mitigate, but not solve bankruptcy risks.

¹¹⁹ European Parliament [resolution T9-0327/2020](#) on stocktaking of European elections, 26.11.2020, point 29.

¹²⁰ D. Klethi, European Parliament, Director-General for Finances, in an AFCO meeting, 12.7.2017.

Neither Regulation 1141/2014 nor its 2018 amendment regulate loans as a means for parties and foundations to finance their operations. Loans are only referred to in Article 2(7) and (8), in the provisions defining what constitutes a donation or contribution; loans below market value are explicitly referred to in the definition.

The European Court of Auditors looked at loans from a very specific angle, emphasising risks related to loans in the context of party financing.¹²¹ It pointed out that a lack of specific provisions on loans, their sources and their terms and conditions in the EU legal framework governing the funding of European political parties might lead to parties circumventing rules on donations and contributions through receiving loans at particularly advantageous conditions. In a similar vein, the OECD pointed to the fact that certain types of loans might potentially be considered as 'hidden private funding'.¹²²

The 2011 OSCE/ODIHR Guidelines on political party regulation deem loans admissible as a means of party financing in principle, as long as transparency rules are observed and the loans are adequately reflected in the financial reports. However, if loans are granted at particularly advantageous conditions, possibly written-off by the creditor, or if they are reimbursed by a third party, the loan should be considered a contribution (in-kind or financial).¹²³

Press coverage and academic research has brought a number of cases of dubious loans regarding political parties at the level of Member States to light.¹²⁴ Parliament addressed this issue in its recent resolution on foreign interferences,¹²⁵ stating that 'foreign actors have found ways to circumvent [restrictions in place] and have offered support to their allies by taking out loans with foreign banks.' The resolution made reference to a number of cases of foreign funding at the national level. A recent external study commissioned by the European Parliament concludes that 'loans with foreign banks is only one of many ways in which foreign funding has been channelled to support political parties, sidestepping the extant legal regulations'.¹²⁶ This topic was also further explored in an expert intervention in a recent INGE/AFCO hearing.¹²⁷

3.3. Spending irregularities

3.3.1. Verification of spending: An outline of the funding procedure

Contributions and grants from the EU budget are awarded to European political parties and foundations at the beginning of the financial year; with the beneficiaries receiving pre-financing. After the end of each financial year, the beneficiaries need to justify the use of the funding granted to them ex-post. The accounts of parties and foundations are audited by an independent external auditor. In addition, the European Parliament, in cooperation with the Authority, verifies whether funding has indeed been used to finance reimbursable expenditure as set out in the initial call for

¹²¹ ECA, [Opinion 1/2013](#), para. 10; reiterated in Opinion 5/2017, para. 8.

¹²² OECD, [Financing democracy: Funding of political parties and election campaigns and the risk of policy capture](#), 2016, pp. 49-50.

¹²³ OSCE Office for Democratic Institutions and Human Rights (ODIHR), [Guidelines on Political Party Regulation](#), adopted by the Venice Commission on 15-16 October 2010, para. 171.

¹²⁴ For a recent account, see E. Bressanelli, [Investing in destabilisation: How foreign money is used to undermine democracy in the EU](#), Policy Department, Directorate-General for Internal Policies, European Parliament, 2021.

¹²⁵ European Parliament [resolution](#) T9-0031/2019 of 10 October 2019 on foreign electoral interference and disinformation in national and European democratic processes, Recital 7.

¹²⁶ Bressanelli, p. 15.

¹²⁷ European Parliament, Hearing 'How to make political party and campaign financing more transparent: what rules do we need in the EU?', organised by Parliament's Special Committee on Foreign Interference in all Democratic Processes (INGE) in association with AFCO, on 23 February 2021.

contributions (for foundations: call for proposals), and within the limits of Regulation 1141/2014 and the EU's Financial Regulation.

As to what qualifies as reimbursable expenditure, Article 17(5) of the regulation indicates administrative expenditure and expenditure linked to technical assistance, meetings, research, cross-border events, studies, information and publications, as well as expenditure linked to campaigns, within the limits of Article 21 (European Parliament election campaigns) and Article 22 (prohibition of funding). More detailed guidance is provided in the implementing decision of Parliament's Bureau, and in particular in the annexed templates of funding agreements, which give a wide range of examples for reimbursable expenditure (for parties) and eligible cost (foundations) and also specify what is non-reimbursable.

If Parliament rejects certain expenditure as ineligible, or if awarded funding remains unused, the party or foundation has to repay part of the pre-financing. Recovery of funds is actually not uncommon. The final amount of the EU funding is determined only when the parties' and foundations' annual reports (including the financial statements) have been approved by Parliament (Bureau). The final amount may – and often does – differ from the pre-financing amount. The Authority may perform subsequent checks within its area of responsibility. In particular, it verifies that expenditure is not in conflict with the provisions set out in Article 22 of the regulation, i.e. that it is not used for (directly or indirectly) funding of national parties and foundations, elections, referendum campaigns or candidates, and that the rules on donations and contributions (Article 20 of the regulation) are complied with. Any subsequent findings by the Authority may, apart from sanctions imposed by the Authority, result in modified final funding decisions by Parliament.

In addition, the European Court of Auditors (ECA) checks sample transactions in the framework of its regular audit of the annual accounts of the EU. In this context, annual ECA reports already included observations regarding non-compliance with the expenditure eligibility rules, e.g. shortcomings in procurement procedures, lack of contractual documents and supporting evidence for costs actually incurred.¹²⁸ Again, ECA findings may result in Parliament decisions to modify final funding amounts.

¹²⁸ European Court of Auditors, [2019 Annual report on the implementation of the EU budget for the 2019 financial year](#), 2020, p. 226.

Figure 6 – The funding procedure, step by step



Source: EPRS, based on EP Bureau Decision of 1 July 2019 and Regulation 1141/2014

3.3.2. 2019 OLAF report

The latest annual OLAF report¹²⁹ and case-law of the European Court of Justice give an insight into issues encountered with doubtful or even unlawful spending practices by European parties and foundations.¹³⁰ It should be noted however, given that 2018 was the first financial year where the accounts of parties and foundations were checked under Regulation 1141/2014 and involving the European Parliament and the Authority, all cases outlined here below refer to funding under the previous Regulation 2004/2003.

In the case of a, meanwhile defunct, European party and its affiliated foundation, OLAF's investigation unveiled that their members used funding from the European Parliament 'to obtain unlawful gains for themselves or for others'. Furthermore, OLAF found 'that the rules linked to the

¹²⁹ European Commission, [The OLAF report 2019](#), 2020, p. 23.

¹³⁰ Given that regulation 1141/2014 became applicable only in January 2017, most cases relate to the legal framework established under the preceding regulation, 2004/2003.

awarding of the grants by the Parliament were frequently disregarded, resulting in unlawful, irregular and ineligible spending of the money'. At the time of OLAF's investigation, the party in question and its affiliated foundation were in liquidation, which made it difficult for Parliament to recover the amounts incorrectly spent. To strengthen Parliament's position in such cases, OLAF recommended that staff approving unlawful expenditure within the party or foundation should be held personally responsible for the damage they cause to the EU budget, so that Parliament could recover the money from them.

The same report described another investigation OLAF conducted against a European party and foundation that were suspected to have used 'a substantial part of the grant awarded to it by the Parliament' to indirectly fund national political parties, which is explicitly prohibited. OLAF further revealed that that party also made payments to a Belgian company in a situation of conflict of interest. In addition, the affiliated foundation was found to have used some of its expenditure in a way OLAF considered to be indirect financing of a national political party and a referendum campaign in a Member State. For the following year, the party and foundation in question failed to submit their final expenditure reports to Parliament. Consequently, Parliament requested repayment of the total amount of prepaid financing, in order to recover the funds. According to OLAF, the total amount Parliament sought to recover for both financial years was over €1.9 million. At the time the OLAF report was published, the criminal investigation was still ongoing.

3.3.3. Case-law

Case T-829/16 *Mouvement pour une Europe des nations et des libertés v Parliament*¹³¹

This case concerns indirect funding of national parties. In 2015, the European political party Mouvement pour une Europe des nations et des libertés (which today is known as Identité et Démocratie Parti) conducted a campaign concerning immigration in the context of the Schengen Agreement in France and Belgium. The French version of the campaign poster displayed the European party's logo, together with 'Front National', whereas the Dutch version of that poster showed the logo of the Vlaams Belang, together with the European party's logo. The European party claimed that the campaign was run on an EU scale, but failed to provide evidence for this.

Parliament considered the campaign expenditure ineligible for EU funding, arguing it would constitute 'indirect funding of two national political parties'. The European party in question challenged this decision before the ECJ. The General Court ruled 'that indirect funding exists where a national political party derives a financial advantage, inter alia by avoiding expenditure which it would have had to incur, even where no funds are directly transferred'. The Court therefore declared the expenses related to the campaign as ineligible and dismissed the claim. The party's subsequent appeal against the ECJ ruling was rejected.¹³²

Case T-118/17, *IDDE v Parliament*¹³³

In this case, press reports of November 2016¹³⁴ unveiled that the (by now defunct) Institute for Direct Democracy (IDDE), which was the foundation of the (equally dissolved) Alliance for Direct

¹³¹ Case T-829/16 *Mouvement pour une Europe des nations and des libertés v Parliament*, [judgment](#) of 27 November 2018.

¹³² Case C-60/19 P *Mouvement pour une Europe des nations and des libertés v Parliament*, [order](#) of 25 September 2019.

¹³³ ECJ Case T-118/17, *IDDE v Parliament*, [judgment](#) of 8 February 2018. See also press article: [Ukip group fails in bid to restore EU funding amid fraud inquiry](#): Institute for Direct Democracy denied funds as EU's anti-fraud office investigates 'irregularities', The Guardian, 19.2.2018.

¹³⁴ e.g. Apache, [Eurosceptische partijen versluisden EU-subsidies naar eigen land](#), 3.11. 2016; NRC Handelsblad, [Anti-EU partijen zijn goed in misbruiken EU subsidies](#), 17.11.2016.

Democracy in Europe and politically linked to the United Kingdom Independence Party (UKIP), had circumvented party finance rules. In particular, it had an internal financing system in place that awarded contracts against donations. Paid donations helped the foundation to reach the threshold of own resources to be eligible for EU funding (15 % at the time), while donors received contracts in turn that exceeded the amounts they had donated. Following a re-examination of the 2015 accounts, Parliament suspended the full payment of the grant to IDDE and referred the case to OLAF for fraud investigation.

At about the same time, Parliament decided on the award of grants to political foundations for the 2017 financial year. IDDE was granted financing, but in light of the aforementioned fraud allegations, its payment was suspended pending investigation. The grant would only be paid if the alleged irregularities were not established. However, pre-financing would be limited to 33 % of the maximum amount (instead of the usual 100 % instalment), and its payment would be conditional upon the presentation of a first demand bank guarantee.

IDDE did not contest Parliament's decision regarding the 2015 grant, but sought annulment of the decision regarding its 2017 funding. Moreover, it made an application for interim measures, which was dismissed by the Court on 4 July 2017 (T-118/17, *IDDE v Parliament*). IDDE argued that the decision would breach the principles of good administration and of the right to defence, as it was given too little time to respond to Parliament's decision, and moreover assuming bias, as none of the 14 Bureau members was a member of a 'Eurosceptic' party. Finally, IDDE contested decision to limit the pre-financing to 33 % of the maximum grant amount and to require a bank guarantee, invoking infringement of the principles of equal treatment and of proportionality. In its judgment of 8 February 2018, the General Court dismissed all claims as unfounded.

Case T-48/17 *ADDE v Parliament*¹³⁵

In January 2017, the Alliance for Direct Democracy in Europe (ADDE), the parent European political party of the aforementioned IDDE foundation, brought a separate claim before the ECJ to seek annulment of funding decisions taken by the European Parliament. ADDE, which was dominated by UKIP, existed between 2014 and 2017. It declared bankruptcy in April 2017 and dissolved shortly after.

The party had been awarded EU funding for the 2015 financial year. In the ex-post verification of the accounts, the external auditor considered parts of the expenditure as ineligible for funding. Following additional checks, Parliament declared that even a substantial part of the expenditure was ineligible, alleging that ADDE had used parts of the EU grant to fund national political parties and a referendum campaign related to Brexit. As a consequence, it asked the party to reimburse an amount equalling around one fifth of the final grant. When Parliament decided on the funding of political parties for the 2017 financial year shortly after, ADDE was awarded funding, but pre-financing was limited to one third of the maximum amount of the grant and made conditional to the provision of a first demand bank guarantee.

ADDE requested annulment of the decision relating to its 2015 budget, and of the decision relating to its 2017 budget in so far as the restrictions on pre-financing and the bank guarantee were concerned, which it deemed disproportionate and infringing the principle of equal treatment. The General Court rendered its judgment on 7 November 2019, annulling Parliament's 2015 decision, while upholding the 2017 decision. With regard to the 2015 decision, the Court pointed out that a member of the Bureau had prejudged the issue in a press release prior to the Bureau decision.

¹³⁵ ECJ Case T-48/17, *ADDE v Parliament*, [judgment](#) of 7 November 2019. This case also received press coverage, see e.g. *The Guardian*, [EU set to ask Ukip group to repay almost £150,000 in 'misspent funds'](#), 17.11.2016; *Politico*, [European Parliament suspends UKIP group's funding over kickbacks claim](#), 13.12.2016.

Moreover, it largely followed ADDE's argument concerning the funding eligibility of a poll held in seven European countries that investigated residents' preference for staying in or leaving the EU.

Conversely, it rejected ADDE's complaint regarding Parliament's 2017 decision, arguing the principles of equal treatment and proportionality were not infringed, since Parliament imposed similar conditions on six other funding recipients. The Court also noted that in view of the party's financial situation, limiting the pre-financing to 33 % of the total grant and to require a bank guarantee in order to safeguard Parliament's financial interests was justified. The guarantee would ensure potential recovery of the sums disbursed by the Parliament.

It should be noted that a specific provision in the EU Financial Regulation – introduced at the time by Regulation 1142/2014 – allows pre-financing to be limited, setting out that the 'contributions shall be paid out in full through one single pre-financing payment, unless, in duly justified cases, the authorising officer responsible decides otherwise' (Article 226(4) FR).

According to the ECJ case-law database, the Court dismissed four other cases where European parties or foundations challenged Parliament's decision to impose a bank guarantee and to limit pre-financing to one third of the total grant:

- Case T-13/17 *Europa Terra Nostra v Parliament*
- Case T-16/17 *APF v Parliament*
- Case T-54/17 *CLF v Parliament*
- Case T-57/17 *Pegasus v Parliament*.

Case T-107/19, *ACRE v Parliament*¹³⁶

Already cited in Chapter 3.2.4, with regard to contributions from non-EU party members, which the ECJ qualified as a donation, this complaint encompassed a number of other arguments, four of which related to alleged irregularities in party spending. The proceedings showcase how thin the line can be between legal spending and illegal indirect funding of a national party and how difficult the assessment can prove.

The European political party, the Alliance of Conservatives and Reformists in Europe (ACRE), received a substantial amount in EU funding for the 2017 financial year, equivalent to nearly 80 % of the party's total estimated eligible expenditure. Following retrospective checks of the accounts by Parliament's financial services, Parliament found that expenditure for four activities did not qualify for public funding in accordance with Regulation 2004/2003 and ordered the recovery of the sums due (totalling roughly €500 000). The expenses related to a survey on the attitudes of minority groups in the UK; a UK-Pakistan trade partnership conference held in London; and two conferences entitled 'Conservatives International', one held in Miami, Florida, and the other in Kampala, Uganda.

Regarding the survey, the Court upheld Parliament's argument. It found that the survey was of only limited interest to the European political party, whilst it was of obvious use to the national Conservative Party in the UK, therefore constituting indirect funding of a political party at national level.

Concerning the second contested activity, the London conference on UK-Pakistan trade, the Court argued that while it was entirely organised and financed by ACRE, it solely benefited the UK Conservative Party and moreover lacked a European dimension. The Court therefore ruled in favour of Parliament, upholding the decision to qualify the expenditure as ineligible.

¹³⁶ ECJ, Case T-107/19, *ACRE v. Parliament*, [judgment](#) of 25 November 2020. This case received also press coverage, see e.g. '[Daniel Hannan's MEP group told to repay € 535,000 in EU funds](#)', *The Guardian*, 13.12.2018.

On the contested Miami and Kampala conferences, Parliament maintained that neither conference could be attributed to the European party. The documentary evidence provided by ACRE suggested 'Conservatives International' as the sole organiser of the two conferences, while the ACRE logo was not prominently or not at all displayed on the photographic evidence submitted. With regard to the Miami conference, the Court found that Parliament's reclassification of the expenses as ineligible for funding 'was without error'. Conversely, with regard to the Kampala conference, the Court held that 'the overall assessment of the evidence undoubtedly leads to the conclusion that the Kampala conference was organised by the applicant'. Furthermore, it established that the conference concerned the EU's external policy and was 'linked to a legitimate objective of the applicant as a political party at European level', thus rejecting Parliament's claim.

In the meantime, the applicant had submitted an application to the Parliament for funding for 2019. Based on a risk assessment of ACRE's financial situation, Parliament considered a risk of non-payment regarding the non-eligible posts. This assumption was based on the high amount of the repayment and the fact that it was neither envisaged as a provision, nor covered by the applicants' own resources. Therefore, ACRE's funding for the 2019 financial year was made conditional upon ACRE having paid back the ineligible 2017 expenditure and the contested Armenian membership fee. Failing that, ACRE would only receive 85 % of its total grant in 2019, to guarantee the reimbursement of the sums due for the 2017 financial year. This decision was challenged by ACRE. The Court annulled Parliament's decision, maintaining it had breached the party's right to defence.

3.4. Financial reporting and transparency requirements

Financial reporting obligations

The regulation sets out that European parties and foundations need to submit their annual financial statements in accordance with the law applicable in the Member State in which they have their seat and, in addition, also on the basis of international accounting standards. This two-tiered reporting obligation was introduced into the regulation upon a suggestion from the ECA,¹³⁷ to enhance the transparency and comparability of financial data.

However, smaller European parties and foundations have voiced their concerns, arguing that reporting in the form of International Financial Reporting Standards (IFRS) comes at a cost. In this respect, for instance, the European Free Alliance and its associated Coppieters Foundation argued that 'IFRS is extremely burdensome both administratively and financially, whilst providing little added value' to European political parties or the European Parliament.¹³⁸

Transparency requirements

The regulation sets out vast and detailed transparency requirements for a number of actors, notably European parties and foundations; the Authority; and the European Parliament. Article 32 stipulates that information regarding the scope of the regulation should be made accessible on a dedicated website. In accordance with this provision, the Authority publishes the following information and documents on its website:¹³⁹

- the names and statutes of registered European political parties and foundations;

¹³⁷ ECA, Opinion 1/2013, para. 18.

¹³⁸ EFA, [Contribution](#) to the European Commission's public consultation on the roadmap for revising regulation 1141/2014, 13.4.2021; Coppieters Foundation, [Contribution](#) to the European Commission's public consultation on the roadmap for revising Regulation 1141/2014, 22.3.2021.

¹³⁹ <http://www.appf.europa.eu>.

- the Authority's decisions to register and not to register European parties and foundations, and to remove them from the register; this information must also be published in the Official Journal of the EU;
- the annual financial statements and external audit reports of European parties and foundations, and, for foundations, the final reports on the implementation of the work programmes or actions;
- data regarding donors and corresponding donations;
- data regarding contributions from member parties and organisations, including their identity;
- the details of and reasons for final decisions taken by the Authority regarding sanctions and any opinions adopted by the Committee of Independent Eminent Persons [none to date];
- and an updated list of Members of the European Parliament who are members of a European political party.

In addition, the website of the Authority links to information that is made available by the European Parliament under the regulation, in particular:

- an annual report with a table of the amounts paid to each European political party and European political foundation, from the EU budget (as contributions or grants), per financial year;
- a description of the technical support provided to European political parties;
- an updated list of legal persons who are members of a European political party;
- and a table indicating the total number of individual members of each European party.

The Authority and European Parliament comply with all the above transparency requirements. However, concerning financial information, notably data on contributions and donations received by parties and foundations, the Authority itself acknowledged that their submissions vary in depth and format. The Authority stated that it would encourage parties to use templates, to ensure a 'comparable level of granularity of information across all accounts'.¹⁴⁰ In a similar vein, researchers and investigative journalists bemoan that the data on contributions and donations are not easily accessible (portable document format (pdf) only, poor legibility of scanned financial statements), and could be more granular and comprehensible.¹⁴¹ Non-governmental organisation Transparency International criticised retrospective publication of information regarding donations, with relatively long reporting delays, and pointed to the common practice in many countries of publishing donations in real-time.¹⁴² Since the 2018 financial year, reporting on donations and contributions falls under the responsibility of the Authority, which publishes aggregated lists retrospectively per financial year on its website, following notification by the parties and foundations, and following verification. Only donations exceeding a value of €12 000 are published as they are notified. This appears to be in line with the transparency requirements set out in Article 32(1) e) and f) of the regulation.

The Authority itself is required to report annually on its activities to the European Parliament, Council and the European Commission, in accordance with Article 6(10) of the regulation. It has, to date, delivered three such reports, but chose to declare its first two reports (2017 and 2018) as confidential; they were presented to Parliament solely in *in camera* committee meetings and never published. The European Parliament, however, insisted that the annual reports be made public,

¹⁴⁰ Authority, 2019 annual report, p. 13.

¹⁴¹ A. Katsaitis, '[Following the money: Exploring business financial contributions to the European Union's political parties](#)', *Journal of Common Market Studies*, Vol. 58(5), 2020, p. 1349; L. Drounau, '[Visualising donations and contributions](#)', European Democracy Consulting, blogpost, 2021; journalist platform [Follow the money](#).

¹⁴² Kergueno, 2017. To be noted, this criticism related to the reporting of donations under the previous Regulation 2004/2003.

arguing public reporting would constitute an element of accountability.¹⁴³ Subsequently, the Authority changed its practice with the 2019 report; it was presented to the AFCO committee on 28 January 2021 and the Committee on Budgetary Control (CONT) on 16 November 2020, in public meetings and also made accessible on the Authority's website. This shift in openness was remarked upon positively in Parliament's 2021 discharge resolution.¹⁴⁴

3.5. Role of European political parties in European Parliament elections

Although participation of a European party in elections to the European Parliament is a pre-condition for its registration with the Authority, the effective role European parties play in European elections remains limited in practice, at least as long as these 'represent the sum of 28 [now 27] elections'.¹⁴⁵ In pre-Lisbon Treaty times, European parties remained largely in the background as 'service providers for national parties',¹⁴⁶ and focused mainly on coordinating the electoral campaigns of their member parties. In addition, they adopted common manifestos (i.e. common electoral programmes) ahead of European elections. The manifestos are, however, considered insufficiently known and to have inherent limitations, as they tend to represent the 'lowest common denominator'¹⁴⁷ of national party programmes, a reason why national parties might not use them for their campaign work. Thus, the manifestos' direct impact on the political debate has remained limited, although it was argued that they indirectly force national parties 'to transpose the main common positions to the national level'.¹⁴⁸

Furthermore, candidate selection for European elections remains widely in the hands of national parties, as the question of who is entitled to put candidates forward in European elections is regulated by national Member State law. In this respect, two initiatives are attempting to Europeanise the election process and to involve citizens more directly: the idea to create transnational electoral lists, and the lead candidate process (*Spitzenkandidaten* process). In the 2014 and 2019 elections, European political parties became more directly involved through the lead candidate system, significantly enhancing their traditional roles by campaigning actively in the Member States.¹⁴⁹

The European Parliament has several times underlined that truly 'Europeanised' European Parliament elections would require a more uniform electoral law. To this end, Parliament has long worked towards electoral reform and proposed changes to the 1976 Electoral Act. Its latest formal proposal was approved by the Council, albeit in a compromise version that did not take account of

¹⁴³ European Parliament [resolution of 13 May 2020](#) on discharge in respect of the implementation of the general budget of the European Union for the financial year 2018, Section I – European Parliament, points 201-203.

¹⁴⁴ European Parliament [resolution](#) of 29 April 2021 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2019, Section I – European Parliament, point 200.

¹⁴⁵ Van Hacked [et al.], p. 25.

¹⁴⁶ J. Kovář, Z. Sychra and P. Kratochvíl, 'Alignment of national parties and European party federations', S. Blockmans and S. Russack (eds.), [Deliberative democracy in the EU: Countering populism with participation and debate](#), CEPS, Rowman & Littlefield International, 2020, p.123.

¹⁴⁷ D. Hanley, 'Outside their comfort zone? National parties, European Parliament groups and transnational parties', Magone J. M. (ed.), *Routledge handbook of European politics*, Routledge 2015, p. 596.

¹⁴⁸ J. Kovář, Z. Sychra and P. Kratochvíl, p.122.

¹⁴⁹ How European political parties' carried out their campaigning activities 'on the road' is depicted in S. Fotopoulos and L. Morganti, [The influence of the Spitzenkandidat process on the role of the European political parties](#), *L'Europe en Formation*, 2020/1, n° 390, pp. 17-34.

all of Parliament's initial reform requests. Council Decision 2018/994 is not yet in force, as ratification is still pending in some Member States.¹⁵⁰

3.5.1. *Spitzenkandidaten* process

The non-binding lead candidate principle, introduced by the European Parliament in an attempt to 'Europeanise' the 2014 elections, meant a paradigm shift, as it attributed a central role to European political parties in electoral candidate selection. In particular, it encouraged European parties to nominate a lead candidate who would run for the President of the European Commission.¹⁵¹ This would give European citizens a say over who would head the European Commission in future and, at the same time, increase the visibility of the electoral debate through the personalisation of the campaign.¹⁵²

Although the process was not uncontroversial, five European parties appointed their *Spitzenkandidaten* in the run-up to the 2014 elections, and eventually the lead candidate from the strongest party, Jean-Claude Juncker, was elected Commission President. In comparison, in 2019, as many as seven of the ten registered European parties abided by the lead candidate principle, although that time it was eventually not decisive in the appointment of the European Commission President, due to the European Council's stiff resistance. The latter argued the nomination of the Commission President is an 'autonomous competence of the European Council, while taking into account the European elections'.¹⁵³ In addition, several Heads of State or Government (e.g. French President Emmanuel Macron and the Luxembourgish Prime Minister Xavier Bettel) have publicly questioned the lead candidate system.

Conversely, the European Commission endorsed the system in a 2018 recommendation,¹⁵⁴ considering it a means to reinforce the EU's democratic legitimacy, to strengthen the Commission's own accountability, and to mobilise voters. The Commission therefore suggested the system's continued use and improvement. In particular, it advocated the selection of the lead candidates 'in an open, inclusive and transparent way, e.g. through "primary" elections'.

A European Parliament initiative¹⁵⁵ to codify the lead candidate process, following its successful first application in 2014, was rebuffed by the Council. The ensuing Council decision – adopted on 13 July 2018, in response to Parliament's proposal to amend the European Electoral Act and, at the

¹⁵⁰ For an outline of the debate on electoral reform, see S. Kotanidis, [European Union electoral law: current situation and historical background](#) European Parliament, EPRS, European Parliament, 2019; and [Legislative Train Schedule on reform of the electoral law of the EU](#), EPRS, European Parliament [continuously updated]. For an in-depth study on the outlook see: L. Cicchi, [Europeanising the elections of the European Parliament](#); Outlook on the implementation of Council Decision 2018/994 and harmonisation of national rules on European elections, Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, 2021.

¹⁵¹ For an outline and background see L. Tilindyte, [Election of the President of the European Commission: Understanding the Spitzenkandidaten process](#), EPRS, European Parliament, 2019.

¹⁵² M. Nogaj and E.-M. Poptcheva, [The reform of the Electoral Law of the European Union](#), European Added Value Assessment, EPRS, European Parliament, 2015, p. 22.

¹⁵³ Tilindyte, p. 7.

¹⁵⁴ [Commission Recommendation 2018/234](#) of 14 February 2018 on enhancing the European nature and efficient conduct of the 2019 elections to the European Parliament.

¹⁵⁵ To this aim, Parliament proposed amendments to the European Electoral Act on the basis of Article 223 TFEU. This report was underpinned by the aforementioned European Added Value Assessment by Nogaj and Poptcheva (on codification see p. 22). European Parliament [resolution T8-0395/2015](#) of 11 November 2015 on the reform of the electoral law of the European Union, Annex: proposal for a Council decision, Article 3f.

time of writing, not yet in force – did not consider the lead candidate process at all.¹⁵⁶ The future of the system therefore remains uncertain. However, a new electoral reform proposal currently being undertaken by the AFCO committee includes a reference to the lead candidate process.¹⁵⁷ In addition, Parliament sets its sights on the Conference on the Future of Europe to stimulate a reform of the *Spitzenkandidaten* system,¹⁵⁸ in the wider context of debating a reform of European electoral law. Parliament insists 'that all European voters should be allowed to vote for their preferred candidate for the President of the Commission', arguing that lead candidates stand 'for a unified European electoral programme'.¹⁵⁹

3.5.2. Transnational lists

Since the 1990s, the European Parliament has repeatedly presented proposals to establish a pan-European constituency.¹⁶⁰ Here, European citizens would be entitled to two votes for two different constituencies: they would continue to select their candidates from national list, and in addition be able to vote for a pre-defined number of Members of the European Parliament from transnational lists. This system of Europe-wide candidates would favour a truly European campaign that places the focus on European (rather than national) themes. At the same time, it would strengthen European political parties, as they would play a central role in the selection of candidates for the transnational lists and in campaigning.

Despite a number of attempts from within Parliament to put such transnational lists in place, the idea has so far remained theoretical and is not uncontested within Parliament itself. One of the more recent initiatives to stimulate a debate on a pan-European constituency was included in Parliament's 2015 proposal to amend the European Electoral Act, but was not subsequently taken up by the Council. Some politicians (e.g. Emmanuel Macron) had suggested using the opportunity arising through Brexit to fill the liberated UK seats with candidates from pan-European lists, but this idea was not pursued.

New efforts aiming at codifying transnational lists are currently undertaken by means of the aforementioned legislative own-initiative report on the revision of the EU's Electoral Act, which is currently being discussed by the AFCO committee.¹⁶¹ This draft report includes detailed provisions on a 'Union-wide constituency'.

3.5.3. Challenges in campaigning

Since 2007, the European Party Regulation allows European political parties – but not European political foundations – to finance campaigning in European elections, to enhance the elections' European character. Article 21 of the regulation sets out that 'the funding of European political parties from the general budget of the European Union or from any other source may be used to finance campaigns conducted by the European political parties in the context of elections to the

¹⁵⁶ [Council Decision 2018/994](#) of 13 July 2018 amending the 1976 Act. As of yet, the Council decision has not yet entered into force, as several Member States have not completed the ratification process. Therefore, this amending act will – full ratification provided – be applied for the first time only in the 2024 elections.

¹⁵⁷ OEIL procedure reference [2020/2220\(INL\)](#). [Draft report](#) dated 3.6.2021.

¹⁵⁸ European Parliament [resolution T9-0327/2020](#), recital U.

¹⁵⁹ *Idem.*, point 18.

¹⁶⁰ For a comprehensive discussion of transnational lists see M. Diaz Crego, [Transnational electoral lists: Ways to Europeanise elections to the European Parliament](#), EPRS, European Parliament, 2021.

¹⁶¹ OEIL procedure reference [2020/2220\(INL\)](#).

European Parliament in which they or their members participate'. In practice however, European parties face a number of challenges pertaining to election campaigns.

Divergent national law

A major challenge is that European parties cannot fully participate in European election campaigns because the conditions for campaigning are uneven across the Member States. A report on the 2019 elections underlines that Member States' rules on the funding of election expenses and their limitations vary significantly.¹⁶² According to this report, the spending limitations applicable to European elections differ greatly from one country to another, and moreover, ten Member States even forbid the financing of national campaigns in European Parliament elections by European parties. The European Parliament raised this issue in its resolution on the stocktaking following the 2019 elections, calling for a further alignment of national and EU legislation to level the playing field across the EU for the European elections (point 27).

Delineation between campaigning and financing national parties

As highlighted by the Authority in several instances,¹⁶³ the regulation includes a certain dichotomy or tension: on the one hand, European parties are granted the right to campaign in European elections (Article 21), and on the other hand, they are not allowed to (directly or indirectly) fund national political parties or candidates (Article 22). The interplay of these two provisions limits the scope of action for European parties and creates legal uncertainty. It implies that European and national parties have to maintain entirely separate campaign spending, which is difficult in practice, e.g. in case of jointly organised campaign events and activities. However, campaigning related to European elections in a Member State typically requires support and cooperation from national counterparts. Therefore, the campaign activities at the two levels cannot be easily separated, and, consequently, such activities are risk being qualified as indirect financial support for national parties.¹⁶⁴ Even if it can be difficult to determine indirect financial support, it is true that co-organised campaigns have in the past involved the misuse of EU party funding,¹⁶⁵ as becomes apparent from the relevant case-law (see Chapter 3.3.3.)

With the objective of giving some practical guidelines, the Authority has, together with the European Parliament's financial services (DG FINS), developed a set of five operational principles to determine what factors make a campaign a European campaign:¹⁶⁶

- 1 Scope: campaigns should have a European dimension, i.e. they should take place in several Member States;
- 2 European content: European parties should focus on European topics, i.e. topics that affect citizens across the EU;
- 3 Ownership: European parties should have ownership of their campaigns and take responsibility for them;
- 4 Authorship: the campaign should be clearly attributable to a European party, for instance through logos and banners;
- 5 Law: European parties' campaigns must comply with the applicable national law.

¹⁶² Election-Watch.EU, Elections to the European Parliament, 23-26 May 2019, Election assessment mission, [final report](#), 2019, p. 20.

¹⁶³ e.g. AFCO meeting 23.2.2021.

¹⁶⁴ Van Hacke [et al.], p. 28.

¹⁶⁵ Van Hacke [et al.], p. 28.

¹⁶⁶ Authority for European Political Parties and European Political Foundations, [Annual activity report 2019](#), pp. 14-15.

For the sake of legal certainty, and in addition to the principles, the Authority suggested also addressing this issue in the next revision of Regulation 1141/2014.¹⁶⁷ Parliament shares this view: to remedy the 'limited possibility for campaign financing and shared activities with their national member parties', it called for amending the regulation to allow European parties and foundations 'to fully participate in the European political space, to campaign, to be able to use campaign funds and stand in European elections'.¹⁶⁸ Most recently, in April 2021, Parliament reiterated its call in the context of the budget discharge procedure, acknowledging 'the practical difficulties created by the nature of the regulation' and emphasising the need for revision and enhanced proportionality and flexibility.¹⁶⁹ Support comes from academia, where recommendations include that the financing rules on joint activities between European and national parties 'could be softened during European campaigns' and suggest the introduction of separate campaign grants to European parties from the EU budget for European elections.¹⁷⁰

Visibility

European political parties are not widely known by European citizens, as recently collected Eurobarometer data confirmed: over 90 % of survey respondents thought there is scope for better explanation of the role of European political parties in the EU, while 77 % supported highlighting the links between the national and European political parties, for example by displaying both names on ballot papers and in targeted political content.¹⁷¹

This lack of visibility in European elections is to some extent due to the relationship between European and national parties. The latter traditionally do not emphasise their European party affiliation in events or campaign material, nor do they make much use of the common manifesto endorsed at the level of the European party.¹⁷² The 2018 amendment to Regulation 1141/2014 aimed at enhancing the visibility of European political parties in the Member States, by requiring national parties to display the political programme and logo of the European political party on their websites 'in a clearly visible and user-friendly manner' (Article 18(2a)). However, recent research found that national parties are not fully in compliance with that display requirement.¹⁷³

In general, logos on party websites are just one possible course of action for boosting the visibility of European parties. The European Commission recommendation mentioned above, adopted in February 2018, aimed at stimulating change with a more comprehensive set of measures. It called on national parties to make their affiliation with European parties more visible in their campaigning activities; to communicate clearly their European political party affiliation, and which lead candidate they support; and called on Member States to display the logos of European parties on the ballots.

Regarding this latter point, empirical research comparing the electoral ballots of the 2014 and 2019 elections showed that the 'Europeanisation' of ballots remained EU-wide at an extremely low level: only around 4 % of national political parties – from ten EU Member States – displayed textual or

¹⁶⁷ Idem.

¹⁶⁸ European Parliament resolution on the stocktaking of European elections, 2020, point 29.

¹⁶⁹ European Parliament [resolution](#) of 29 April 2021 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2019, Section I – European Parliament, point 199.

¹⁷⁰ Van Hacke [et al.], p. 45.

¹⁷¹ European Commission, [Report on the public consultation for the European Democracy Action Plan \(EDAP\)](#), 2020, pp. 11-12.

¹⁷² Van Hacke [et al.], p. 33.

¹⁷³ European Democracy Consulting, [The Logos project, report](#), April 2021. This report found that nine of the ten European parties have national member parties that do not display their logo on their webpages; moreover, where logos are displayed, they are not clearly visible.

visual references to European political parties on the ballots, and the percentage remained largely unchanged from one election to the next.¹⁷⁴ This figure would suggest that the 2018 Commission recommendation was unable to trigger change. However, from a Commission report, it appears that current national legislation in a number of Member States does not allow the logos of European political parties to be displayed.¹⁷⁵

In its 2015 legislative own-initiative report on reforming the EU electoral law, the European Parliament proposed to make the display of European political parties' names and logos on ballot papers compulsory, along with the names and logos of national parties. In a similar vein, Parliament suggested Member States could make the affiliation and manifestos of European parties more visible in electoral campaign materials.¹⁷⁶ However, Parliament's request was watered down in Council Decision 2018/994, which made logos merely optional ('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'). Parliament returned to the issue in November 2020, reiterating its request to make logos on ballot sheets compulsory.¹⁷⁷

An interesting proposal in this respect was put forward by a think-tank, suggesting – instead of making logo display a mandatory requirement – introduction of a system of incentives for the use of European parties' logos and manifestos instead, e.g. by granting national parties access to dedicated EU funds for European election campaigns.¹⁷⁸

3.5.4. Foreign interference in European elections

Electoral interference can take a variety of forms, such as dark money, disinformation campaigns, cyber-attacks, misuse of personal data, and unlawful micro-targeting, to name just a few.¹⁷⁹ Similarly, motivation for interference can be manifold and include the intention to distort election results (e.g. by manipulating voter choices or discouraging turnout), undermine public confidence in democracy or obtain financial gain.¹⁸⁰ Aware of the systemic global threat foreign electoral interference poses to democracy, in the run-up to the 2019 elections, the EU developed a set of measures to tackle foreign interference in election processes and disinformation.

The European Commission's report on the 2019 European Parliament elections noted multifaceted manipulative efforts ahead of the elections, such as isolated cyber-attacks and data protection issues, but concluded that 'a covert, coordinated large-scale effort to interfere in the elections has not been identified'.¹⁸¹

This is also the conclusion the European Parliament reached in its resolution on the 2019 elections, which found that foreign interference in the EU electoral process in any of its forms – disinformation, cyber-attacks or financing of political parties – did not affect the 2019 European elections. Nonetheless, Parliament recalled that electoral interference at the Member State level may affect

¹⁷⁴ Cicchi, pp. 19-24. The display of logos on electoral ballot papers is also explored in K. Auel and G. Tiemann, [Europeanising European public spheres](#), Policy Department, Directorate-General for Internal Policies, European Parliament, 2020, pp. 74-80.

¹⁷⁵ European Commission, Report on the 2019 elections to the European Parliament, [COM\(2020\) 252](#), p. 13 and [SWD\(2020\) 113](#), p. 26.

¹⁷⁶ European Parliament [resolution T8-0395/2015](#), Annex, Article 3e.

¹⁷⁷ European Parliament resolution on the stocktaking of European elections, 2020, point 28.

¹⁷⁸ J. Kovář, Z. Sychra and P. Kratochvíl, p.120.

¹⁷⁹ European Commission, [Report on the 2019 elections to the European Parliament](#), COM(2020) 252, p. 18.

¹⁸⁰ Idem., p. 18.

¹⁸¹ Idem., p. 26.

the EU as a whole and therefore stressed that 'threats can neither be addressed solely by national authorities working in isolation nor by pure self-regulation of the private sector but require a coordinated multi-level, multi-stakeholder approach'.¹⁸²

While the 2019 amendment to Regulation 1141/2014 regulated the misuse of personal data to influence electoral outcomes, protection against other forms of electoral interference is not specifically taken into account in the current European Party Regulation.

Foreign interference in European Parliament elections is also one of the topics the Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation (INGE) is currently examining.¹⁸³

3.6. Referendum campaigns

While Regulation 1141/2014 allows for the funding of campaigning in the run-up to European elections, it prohibits the financing of referendums and national election campaigns (Article 22(3)). Non-compliance with this rule gives rise to sanctions.

The ban on funding referendums was already included in the European Commission's 2012 legislative proposal on the regulation.¹⁸⁴ Parliament took a different view, voting an amendment to allow European political parties to finance 'campaigns conducted in the context of referenda in one or several Member States which directly concern matters relating to the European Union'.¹⁸⁵ However, this amendment was not retained in the adopted regulation, due to lack of support in the Council.

Notwithstanding, voices in Parliament have continued to advocate amending the regulation to allow European parties to campaign in referendums 'that concern European matters', such as international trade agreements or the UK's 2016 referendum on EU membership,¹⁸⁶ arguing that would 'help form European political awareness'.¹⁸⁷ Engaging in EU-related referendums would increase the visibility of European political parties. However, giving parties a role in these referendums would likely require changes in national legislation.¹⁸⁸

¹⁸² European Parliament [resolution T9-0031/2019](#) of 10 October 2019 on foreign electoral interference and disinformation in national and European democratic processes, point 13.

¹⁸³ OEIL procedure [2020/2268\(INI\)](#), rapporteur Sandra Kalniete (EPP, Latvia).

¹⁸⁴ COM(2012) 499.

¹⁸⁵ European Parliament, [Report A7-0140/2013](#) (rapporteur: Maritetta Giannakou (EPP, Greece), amendment 9.

¹⁸⁶ European Parliament resolution on the stocktaking of European elections, 2020, point 27.

¹⁸⁷ European Parliament, [plenary debate](#) 15 March 2017.

¹⁸⁸ J. Kovář, Z. Sychra and P. Kratochvíl, p.121.

4. Conclusions

European political parties have come a long way since they first emerged at the EU level, ahead of the 1979 direct elections to the European Parliament. Today, they are firmly anchored in the EU Treaties and in the EU Charter of Fundamental Rights. As actors linking EU politics with national parties and EU citizens, European political parties fulfil an important function in the European public space. However, due to their characteristic feature of being 'parties of parties' (rather than parties of individual members), they have little direct contact with the electorate and suffer from a lack of visibility among the general public. In that respect, European political parties do not yet live up to their full potential, even if they have begun to engage as facilitators in the run-up to the last two European elections.

The statute and funding of European political parties and their affiliated foundations are currently governed by Regulation 1141/2014, which has been applicable since January 2017 and amended twice since. Under this regulation, both entities enjoy European legal personality, and their formal registration is a pre-condition for accessing funding from the EU general budget. At present, a total of ten European political parties and ten foundations are registered, from across the political spectrum. Their number has been stable since the 2018 amendment to Regulation 1141/2014 became applicable, which tightened the registration requirements and put an end to abusive party formation practices. While academic research has examined different aspects of European political parties, their associated foundations have remained under-researched to date.

One of the main innovations of the Party Regulation was the establishment of a dedicated oversight body, the Authority for European Political Parties and Foundations. It is responsible for registering, controlling and, in case of non-compliance, issuing sanctions on, European political parties and foundations. Since its inception, the Authority has acted effectively with regard to the registration process, which was its main activity in 2017. From the 2018 financial year, it has also reviewed the accounts of parties and foundations, with particular consideration of parties' compliance with the rules on contributions and donations, as well as spending. It has not yet imposed any sanctions. Likewise, the politically delicate and somewhat complex verification mechanism as to whether a registered party or foundation is in breach of the EU's fundamental values has never been triggered.

Levels of funding from the EU budget have substantially increased over time and amount to €46 million for parties and €23 million for foundations for the 2021 financial year. This means an increase of 41 % for parties and 19 % for foundations, since 2018. However, as parties and foundations are obliged to generate a certain percentage of their income from own resources – this threshold is currently set at 10 % for parties and 5 % for foundations – keeping pace with the steady rise in EU funds has proved challenging for even larger parties with a broad membership structure. This has led to parties increasingly taking out loans, which are not regulated in the EU legal framework in terms of origin, terms and conditions, as the European Court of Auditors has noted.

To acquire the required level of own resources, parties and foundations rely mainly on membership contributions and to a lesser extent on donations. Both are subject to strict rules and transparency requirements. In the past, practically all parties and foundations used to raise a part of their contributions from like-minded member parties and associations in third countries, with whom they traditionally maintain close ties in the context of EU enlargement or other EU strategic partnerships (e.g. Eastern Partnership and European Economic Area). However, the recent ECJ ruling in Case T-107/19 *ACRE v Parliament* raises questions, in so far as the Court clarified that contributions paid by third-country actors should be equated with foreign donations (which are prohibited under the current regulation). This ruling requires further reflections in the context of the revision of Regulation 1141/2014. However, it should be noted that the ECJ ruling did not question the

cooperation between European political parties and their non-EU partners as such, it merely set out that these partners cannot be considered members in light of the regulation's definition of a political party and therefore they cannot pay membership contributions. Since the UK left the EU, third-country status also applies to UK parties. An important element in this discussion appears to be the definition of membership types in the various party statutes. At present, parties use a variety of terms and concepts, such as full members, associated members, affiliate members, observer members and candidate members, which adds a certain degree of complexity.

Under Regulation 1141/2014, contributions by individual members (i.e. natural persons) are allowed, up to an annual total of €18 000 per person, but – contrary to contributions from legal persons and donations from individuals – they are not subject to any transparency requirements. This has been flagged in a recent European Parliament hearing as a loophole in the current regulation, which could be used by intermediaries to circumvent the rules on donation.

Apart from donations and contributions, other sources of income also exist – e.g. participation fees for events, project contributions, book sales, consulting activities – but they are not covered as a separate category by the current legal framework.

Turning to spending, ECJ case law gives an insight into the issues encountered with the dubious or even unlawful spending practices of European parties and foundations. It also showcases how difficult it can be to draw a line between legal spending and indirect funding of a national party. However, it is important to note that the existing body of case law refers to the previous Regulation 2004/2003; under current Regulation 1141/2017, no case has yet been brought before the Court. Regarding cases of suspected fraud and/or corruption, several cases have been passed on to OLAF for formal investigation.

As yet, the role and visibility of European political parties in European elections has remained fairly limited. Regulation 1141/2014 requires national parties to make their affiliation with a European political party visible on their websites. Moreover, Council Decision 2018/994 (reforming the 1976 Electoral Act) mentions the display of the name or logo of the European political party on the ballot paper, without making it compulsory. Any substantial attempt to truly 'Europeanise' the elections would necessitate a further reform of the 1976 Electoral Act. Innovative initiatives, such as transnational lists, would not only enhance the European dimension of European Parliament elections, but also attribute a central and more visible role to European political parties. A new attempt to codify a pan-European constituency and the lead candidate process is included in the AFCO committee's ongoing legislative own-initiative report pertaining to the revision of the EU Electoral Act.

The views of the Council and European Parliament also diverge on the question of funding of referendums. Parliament advocates allowing this, although under narrow terms ('campaigns conducted in the context of referenda in one or several Member States which directly concern matters relating to the European Union').

Finally, with regard to financial reporting, Regulation 1141/2014 establishes a two-tier reporting system, encompassing national and international standards. Smaller European parties and foundations especially question the mandatory use of the International Financial Reporting Standards (IFRS), finding them burdensome, costly and not appropriate for party reporting.

The forthcoming revision of Party Regulation 1141/2014 presents an opportunity to address any shortcomings, non-clarity or other issues within the scope of application of Regulation 1141/2014. The revision process is informed by the European Parliament's evaluation report, currently being drawn up in accordance with Article 38 of the regulation and by the European Commission's stakeholder consultation, and evaluation and impact assessment. The aim is to have the new regulation in place in early 2023, well ahead of the 2024 European elections and to apply in the 2024 financial year.

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Annex 1 – List of registered European political parties

Since entry into force of Regulation 1141/2014; as of 31 May 2021.

Name of the party	Acronym	Date of decision by the Authority	Comment
Alliance of Liberals and Democrats for Europe Party	ALDE	4 May 2017	
European People's Party	EPP	23 May 2017	
Party of European Socialists	PES	14 June 2017	
European Democratic Party	PDE-EDP	18 July 2017	
European Green Party		20 July 2017	
European Free Alliance	EFA	27 July 2017	
Party of the European Left		7 August 2017	
European Conservatives and Reformists Party	ECR	24 August 2017	Formerly: Alliance of Conservatives and Reformists in Europe
European Christian Political Movement	ECPM	31 August 2017	
Identité et Démocratie Parti	ID	14 September 2017	Formerly: Mouvement pour une Europe des nations et des libertés

Source: EurLex and Authority.

Two further parties had been registered by the Authority under Regulation 1141/2014, but following the entry into force of amendment 2018/673 they were removed from the register.

Name of the party	Acronym	Date of decision by the Authority	Comment
Alliance of European National Movements		12 January 2018	Removed from register on 29 August 2018
Alliance for Peace and Freedom	AFP	9 February 2018	Removed from register on 3 September 2018; new application rejected on 26 November 2020 ¹⁸⁹

¹⁸⁹ [Decision](#) of the Authority of 26 November 2020 not to register Alliance for Peace and Freedom. The rejection was substantiated by the fact that the alliance did not meet the minimum representation requirements.

Annex 2 – List of registered European political foundations

Since entry into force of Regulation 1141/2014 on 1 January 2017; state of play: 31 May 2021.

Name of the foundation	Acronym	Founding year	Date of registration decision	Affiliated party
Wilfried Martens Centre for European Studies		2008	12 July 2017	European People's Party
European Liberal Forum	ELF	2007	25 July 2017	Alliance of Liberals and Democrats for Europe Party
Institute of European Democrats	IED	2007	10 August 2017	European Democratic Party
Foundation for European Progressive Studies	EFPS	2008	31 August 2017	Party of European Socialists
Green European Foundation	GEF	2008	31 August 2017	European Green Party
Sallux (formerly: European Christian Political Foundation)		2008	20 September 2017	European Christian Political Movement
Coppieters Foundation (formerly: Centre Maurits Coppieters)		2007	20 September 2017	European Free Alliance
New Direction — The Foundation for European Reform	ID	2010	20 September 2017	European Conservatives and Reformists Party
Transform Europe		2007	27 September 2017	Party of the European Left
Association pour l'Identité et Démocratie Fondation (formerly: Fondation pour une Europe des Nations et des Libertés)		2011	29 September 2017	Mouvement pour une Europe des nations et des libertés

Source: EurLex, Authority and Hanley (for founding year).

A further foundation had been registered by the Authority under Regulation 1141/2014, but following the entry into force of amendment 2018/673 it was removed from the register.

Name of the foundation	Founding year	Date of decision by the Authority*	Affiliated party / comment
Europa Terra Nostra	not indicated	24 April 2018	Alliance for Peace and Freedom; removed from register on 13 September 2018

Source: EurLex and Authority.

Annex 3 – Applications for EU funding per year

European political parties (2007-2021)

Legal basis	year	Number of applications	Number of rejections	Explanation provided
Regulation 1141/2014	2021	10		
	2020	10		
	2019	10		
	2018	12	2	<i>Reason for rejection not stated</i>
Regulation 2004/2003	2017	16		
	2016	16		One proposal judged null and void
	2015	16	1	One proposal was refused since it did not fulfil the eligibility criteria
	2014	13		
	2013	14	1	One proposal was refused since it did not fulfil the eligibility criteria
	2012	13		
	2011	12	1	One proposal was refused since it did not fulfil the eligibility criteria
	2010	10		
	2009	10	1	The award decision on one proposal was suspended a few days after approval.
	2008	10		
	2007	10		

Source: European Parliament, [Brief annual reports](#), 2021.

European political foundations (2008-2021)

Legal basis	year	Number of applications	Number of rejections	Explanation provided
Regulation 1141/2014	2021	10		
	2020	10		
	2019	10		
	2018	11	1	<i>Reason for rejection not stated</i>
Regulation 2004/2003	2017	15		
	2016	16	1	One proposal was rejected since the application of the affiliated party was judged null and void.
	2015	16	1	One proposal was refused since it did not fulfil the eligibility criteria
	2014	13		
	2013	14	1	One proposal was refused since it did not fulfil the eligibility criteria
	2012	12		
	2011	13	2	Two proposals were refused since they did not fulfil the eligibility criteria
	2010	9		
	2009	10	1	The decision on one proposal was suspended on the grounds that not all the eligibility criteria were fulfilled.
	2008	10		

Source: European Parliament, [Brief annual reports](#), 2021

Annex 4 – EU funding granted to European political parties, 2004-2021

year	Amount granted: appropriations (rounded, in € million)	Final amount granted: outturn (rounded, in € million)
2004	6.5	4.7
2005	8.4	8.3
2006	8.6	9.2
2007	10.4	10.2
2008	10.6	10.3
2009	10.9	10.5
2010	14.1	14
2011	17.4	17.3
2012	18.9	18.9
2013	21.8	21.6
2014	27.8	27.7
2015	28.3	27.9
2016	31.4	30.6
2017	31.9	30.9
2018	32.4	32.2
2019	50	47.5
2020	42	
2021	46	

Source: [EurLex](#).

Annex 5 – EU funding granted to European political foundations, 2008-2021

year	Amount granted: appropriations (rounded, in € million)	Final amount granted: outturn (rounded, in € million)
2008	5	4.3
2009	7	6.4
2010	9.1	8.8
2011	11.4	11.1
2012	12.2	12
2013	12.4	12.4
2014	13.4	13.4
2015	16.7	16.1
2016	18.7	18.4
2017	19	18.9
2018	19.3	19.1
2019	19.7	19.7
2020	21	
2021	23	

Source: [EurLex](#).

European political parties are transnational political alliances made up of national parties from the same political family. Since July 2004, they have been able to receive funding from the EU general budget. The current Regulation 1141/2014, applicable since 2017, tightened the requirements for parties' recognition, funding and spending. Yet, some parties (and their affiliated foundations) found loopholes in the legal framework. Targeted amendments to the regulation adopted in 2018 and 2019 sought, inter alia, to prevent misuse of public funds, enhance the role of European parties in the European public space, and safeguard the integrity of the European elections by sanctioning breaches of the rules on the protection of personal data. This study examines the operation of the legal framework, ahead of the legislative revision announced by the European Commission in its 2021 work programme, and in support of the evaluation report currently undertaken by the AFCO committee.

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