Criteria, conditions, and procedures for establishing a political party in the Member States of the European Union
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STUDY

Abstract

This study has been prepared by the Centre d’étude de la vie politique (Cevipol), part of the Institute for European Studies (IEE) and the Faculté des sciences sociales et politiques (FSP) of the Université Libre de Bruxelles (ULB). It covers four aspects: 1) An overview of the existing criteria, conditions, and procedures for establishing a political party applying in the 27 Member States of the European Union. 2) An examination of how to amend current party statutes, notably at the European level, in order to create a more lively internal party democracy. 3) The development of suggestions towards a legal base of a future European party statute under EU law. 4) The development of proposals on how to involve the European Electoral Authority in the management and supervision of European political parties.
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LIST OF ABBREVIATIONS

**EL**  Electoral Law

**PL**  Party Law

**ERC**  European Research Council

**ESCE**  Electoral System Changes in Europe since 1945

**FRS-FNRS**  Fonds National de la Recherche Scientifique - Belgium

**MP**  Member of Parliament

**EEA**  European Electoral Authority
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EXECUTIVE SUMMARY

Aim

This study aims at providing guidance on how to continue the evolution of present European political parties towards autonomous organizations having a legal base in EU law.

Key Findings

1. The regulation of political parties across Europe is increasing over time in the post-war period;
   - The requirements included in these regulations tend also to increase over time;
   - The regulation takes the form of Party Laws (PL) or Electoral Laws (EL), and specifies the conditions, criteria, and procedures for establishing a political party;
   - The content analysis of these laws allows to have an overview of the regulation of parties in the 27 Member States of the European Union;
   - The conditions for establishing a political party typically include a minimum number of signatures or founding members, the payment of a deposit or fee, the publication of the information in the official gazette, and the requirement for specific documents (party statutes, charter, programme, logo, etc.);
   - The procedures for registration are roughly similar across countries, with the most important distinction lying in the type of authority in charge of the registration and supervision of parties (Ministries, Courts, or Electoral Authority);
   - In a pragmatic view, the increasing regulation of parties has a direct effect on the emergence of parties and the development of the electoral market (control of political fragmentation but infringing upon democratic freedom of association and organizational autonomy);
   - In a normative view, the increasing regulation illustrates a shift from a pluralist definition of democracy to a definition of democracy here the state has to provide contested elections, requiring political parties.

2. Political parties have faced three main evolutions in the last twenty years: a gradual decline of trust in political parties among citizens, a growing personalization of politics, and a shift in attitudes towards growing citizens’ demands for more participation;
   - In reaction, parties have embarked in a dual process: the expansion of direct democratic procedures at the system level, and the transformation of their internal organization to renew intra-party democracy;
The most notable transformation of intra-party functioning is the trend towards more inclusive selectorates in the selection of party leaders, in the form of the empowerment of rank-and-file members, or even voters via a system of primaries;

Conversely, there is little evidence of a trend towards more inclusive candidate selection methods; there is a great diversity in methods used across parties, and little transparency in the process in most parties;

However, the reforms at the system and the party levels did not stop party membership decline or the declining trust towards political parties;

The effects of these reforms on the dynamics of party life are debated; one has to investigate their effects on four dimensions of democracy (participation, representation, competition, and responsiveness);

The relationship between inclusiveness and these four dimensions is not linear and positive;

Therefore, more inclusiveness does not always equal more internal democracy: it depends on which conception of democracy is applied (which of the four dimension is considered dominant), and on the conception of the articulation between democracy at the system level and intra-party democracy.

3.

National party laws traditionally fulfil five functions: 1) they define the criteria for recognition of a political party, 2) they regulate party activities, 3) they define norms for party organization, 4) they set sanctions against parties, and 5) they organize the public financing of parties;

At the EU level, the management and supervision of these functions is in the hands of the European Parliament;

The current regulation at the EU level covers two of these functions: the definition and recognition of European parties, and the financing of European parties;

Therefore, there is room for possible innovation for a legal base of a future European party statute under EU law, on the one hand regarding the two functions already developed under EU law, and on the other hand on the traditional function of party law that are not yet developed under EU law.

4.

At the national level, Party Laws not only specify the criteria and procedures for establishing political parties, but they also assign a specific body or institution the management and supervision of political parties;

Traditionally, at the national level, this supervision is in the hands of Ministries, Courts, or (increasingly) independent Electoral Authorities;

Independent Electoral Authorities traditionally fulfil five functions: 1) organizing elections, 2) conducting studies and organizing debates about potential reforms, 3) management and supervision of political parties, 4) regulation of party finances, and 5) organizing information campaigns and civic education programs;

At the EU level, the current regulation specifies that the management and supervision of political parties is in the hands of the European Parliament;
Criteria, conditions, and procedures for establishing a political party in the Member States of the EU

- At the EU level, one might extend the considerations beyond the conditions and procedures for establishing a political party and also reflect on the body or institution that would be in charge of overlooking the process;

- Based on the observation of the discrepancy between the national and the EU level, and on the trend towards a growing role of Electoral Authorities in modern democracies, suggestions can be developed regarding the possible future development of an independent body in charge of the management and supervision of political parties and the organization of free and fair elections.

**Main Results**

- The comparative analysis of the roles and functions of Party Laws/Electoral Laws and of independent electoral authorities in modern democracies allows for the suggestion of possible innovations at the EU level on two major aspects;

- On the one hand, the current regulation at the EU level could be amended so as to fulfil the same five traditional functions as national Party Laws;

- On the other hand, the current regulation at the EU level could be amended so as to grant the management and supervision of parties to an independent body (e.g. a ‘European Electoral Authority’), which could fulfil the same five traditional functions as national Electoral Authorities.
RESUME

Objectif

Cette étude vise à fournir des orientations sur la manière de poursuivre l'évolution des partis politiques européens actuels vers des organisations autonomes dont la base juridique serait consacrée par le droit de l'Union.

Principales observations

1. 
   - La réglementation des partis politiques à travers l'Europe dans la période d'après-guerre est en progression.
   - Les exigences figurant dans cette réglementation ont elles aussi tendance à augmenter au fil du temps.
   - Cette réglementation prend la forme de lois sur les partis ou des lois électorales et précise les conditions, les critères et les procédures applicables à la création d'un parti politique.
   - L'analyse du contenu de ces lois permet d'avoir un aperçu de la réglementation des partis dans les 27 États membres de l'Union européenne.
   - Les conditions de création d'un parti politique comprennent généralement un nombre minimum de signatures ou de membres fondateurs, le versement d'un acompte ou le paiement de frais, la publication au journal officiel et la fourniture de documents spécifiques (statuts, charte, programme, logo du parti, etc.).
   - Les procédures d'enregistrement sont relativement similaires d'un pays à l'autre, la différence la plus notable résidant dans le type d'autorité chargée de l'enregistrement et de la surveillance des partis (ministères, tribunaux ou autorité électorale).
   - D'un point de vue pragmatique, la réglementation croissante des partis a un effet direct sur l'émergence de partis et le développement du marché électoral (elle permet un contrôle de la fragmentation politique, mais empêche sur la liberté démocratique d'association et l'autonomie organisationnelle).
   - D'un point de vue normatif, la réglementation croissante illustre le passage d'une définition de la démocratie pluraliste à une définition de la démocratie où l'État doit assurer une confrontation électorale, ce qui nécessite des partis politiques.

2. 
   - Les partis politiques ont été confrontés à trois grandes évolutions au cours des vingt dernières années: un recul progressif de la confiance des citoyens dans les partis politiques, une personnalisation croissante de la politique et un changement d'attitude envers les aspirations croissantes des citoyens à une plus forte participation.
   - Les partis se sont donc engagés dans un double processus: d'un côté, l'extension des procédures démocratiques directes au niveau du système et, de l'autre, la transformation de leur organisation afin de renouveler la démocratie interne.
L'évolution la plus notable en termes de fonctionnement de parti est la tendance à l'élargissement de la sélection des dirigeants, sous la forme d'un renforcement du rôle des membres de base, pouvant aller jusqu'à leur transformation en électeurs par le biais d'un système de primaires.

En revanche, peu d'éléments attestent d'une tendance en faveur de méthodes de sélection des candidats plus inclusives ; on observe une grande diversité de méthodes utilisées parmi les partis et peu de transparence de ces processus dans la plupart d'entre eux.

Toutefois, les réformes au niveau du système et des partis n'ont pas empêché ni le déclin dans l'adhésion aux partis ni la baisse de confiance envers les partis politiques.

Les effets de ces réformes sur la dynamique de la vie du parti sont sujets à discussion ; il est nécessaire d'étudier leurs effets sur les quatre dimensions de la démocratie (participation, représentation, concurrence et réactivité).

La relation entre l'inclusion et ces quatre dimensions n'est pas linéaire et positive.

Par conséquent, plus d'inclusion ne signifie pas toujours plus de démocratie interne : cela dépend de la conception de la démocratie qui est appliquée (laquelle des quatre dimensions est considérée comme dominante) et de l'articulation entre la démocratie au niveau du système et la démocratie interne du parti.

3. Les lois régissant les partis politiques nationaux remplissent traditionnellement cinq fonctions : 1) elles définissent les critères de reconnaissance d'un parti politique, 2) elles régulent les activités du parti, 3) elles fixent les normes d'organisation interne du parti, 4) elles déterminent les sanctions à l'encontre des partis, et 5) elles organisent le financement public des partis.

Au niveau de l'Union, la gestion et le contrôle de ces fonctions incombent au Parlement européen.

La réglementation actuelle au niveau de l'Union couvre deux de ces fonctions : la définition et la reconnaissance des partis européens, ainsi que leur financement.

Par conséquent, il existe une marge d'innovation concernant la base juridique d'un futur statut des partis politiques européens en vertu du droit de l'Union, en ce qui concerne les deux fonctions déjà régies par le droit de l'Union, d'une part, et la fonction traditionnelle des lois sur les partis politiques qui n'est pas encore régie par le droit de l'Union, d'autre part.

4. Au niveau national, les lois sur les partis ont pour objectif non seulement de préciser les critères et les procédures de création des partis politiques, mais également d'attribuer la gestion et le contrôle des partis politiques à un organisme ou une institution spécifique.

Traditionnellement, au niveau national, ce contrôle est assuré par des ministères, des tribunaux, ou (de manière croissante) des autorités électorales indépendantes.

Les autorités électorales indépendantes remplissent traditionnellement cinq fonctions : 1) l'organisation des élections, 2) la réalisation d'études et l'organisation de débats sur les réformes éventuelles, 3) la gestion et le contrôle des partis politiques, 4) la réglementation du financement des partis, et 5) l'organisation de campagnes d'information et de programmes d'éducation civique.
- Au niveau de l'Union, la réglementation actuelle prévoit que la gestion et le contrôle des partis politiques incombent au Parlement européen.

- Toujours au niveau de l'Union, il serait possible d’étendre les considérations au-delà des conditions et des modalités de création d'un parti politique et de mener une réflexion sur l'organe ou l'institution chargé(e) de la surveillance du processus.

- À la lumière du décalage existant entre le niveau national et celui de l'Union et eu égard à l'évolution vers un rôle renforcé des autorités électorales dans les démocraties modernes, il est possible d’élaborer des suggestions en ce qui concerne l'évolution possible d'un organe indépendant chargé de la gestion et du contrôle des partis politiques et de l'organisation d'élections libres et équitables.

**Principaux résultats**

- L'analyse comparative des rôles et des fonctions des lois sur les partis/lois électorales et des autorités électorales indépendantes dans les démocraties modernes permet d'émettre des suggestions sur les innovations possibles au niveau de l'Union en ce qui concerne deux aspects majeurs:

  - d'une part, la réglementation de l'Union pourrait être modifiée de manière à remplir les cinq fonctions traditionnelles des lois nationales sur les partis politiques;

  - d'autre part, la réglementation actuelle de l'Union pourrait être modifiée de manière à confier la gestion et le contrôle des partis à un organe indépendant (par exemple, une "autorité électorale européenne"), qui pourrait remplir les cinq fonctions traditionnelles des autorités électorales nationales.
INTRODUCTION / GENERAL INFORMATION

KEY FINDINGS

- Conditions and procedures for establishing a political party tend to differ from one national context to the other;

- This variation in the regulations leads to a great diversity in the way national contexts ‘produce’ political parties;

- The common trend is towards a greater regulation of parties through Party Laws (PL) or Electoral Laws (EL).

As stated in the study on ‘How to create a transnational European party system?’ (1), parties are the products of national political settings. Parties emerged and developed in these national settings. Therefore, the impact of the national context on the shape and form of party organizations in European democracies is tremendous.

Each state might decide to regulate the recognition of political parties, and establish conditions and procedures for such recognition. Therefore, the conditions and procedures for establishing a political party tend to differ from one national context to the other, leading to a great diversity in the way these contexts ‘produce’ political parties. Despite the diversity, the common trend is towards a greater regulation of party organizations (Casal-Bétoa et al, 2012) via specific Laws on Political Parties or Party Laws (PL) or other pieces of regulation such as the Electoral Laws (EL). It is as if there had been a major shift in the dominant view on party regulation, from the liberal principle of non-intervention to a much more regulated perspective.

In return, it makes party structures and party organizations vary a lot from one setting to another. In particular, the content of party statutes or party law allows for a great diversity in models of internal functioning and democracy.

The main part of this study provides an overview of the regulation of political parties across Europe. More specifically, it provides an overview of the development of party regulation, and summarizes the existing criteria, conditions, and procedures for establishing a political party applying in the 27 Member States of the European Union. This main part of the study relies on first-hand data gathered by a research team based at Leiden University and lead by Ingrid van Biezen.

The study also covers three other aspects through the analysis of second hand data. First, the study analyses the main trends and development regarding internal party democracy, with a specific focus on two dimensions of the decision-making process within political parties: the selection of the party leader and the process to select candidates for elections. Second, we develop suggestions towards a legal base of a future European party statute

under EU law. These recommendations are fuelled by the analysis carried in the two previous chapters, on the role and content of party laws and the trends regarding the decision making process within parties. Third, we discuss the role and functions of electoral authorities in order to develop proposals on how to involve a potential European Electoral Authority in the management and supervision of European political parties.
1. CRITERIA, CONDITIONS, AND PROCEDURES FOR ESTABLISHING A POLITICAL PARTY IN THE MEMBER STATES

KEY FINDINGS

- The regulation of political parties across Europe is increasing over time in the post-war period;
- The requirements included in these regulations tend also to increase over time;
- The regulation takes the form of Party Laws (PL) or Electoral Laws (EL), and specifies the conditions, criteria, and procedures for establishing a political party;
- The content analysis of these laws allows to have an overview of the regulation of parties in the 27 Member States of the European Union;
- The conditions for establishing a political party typically include a minimum number of signatures or founding members, the payment of a deposit or fee, the publication in the official gazette, and the requirement for specific documents (party statutes, charter, programme, logo, etc.)
- The procedures for registration are roughly similar across countries, with the most important distinction lying in the type of authority in charge of the registration and supervision of parties (Ministries, Courts, or Electoral Authority);
- In a pragmatic view, the increasing regulation of parties has a direct effect on the emergence of parties and the development of the electoral market (control of political fragmentation but infringing upon democratic freedom of association and organizational autonomy);
- In a normative view, the increasing regulation illustrates a shift from a pluralist definition of democracy to a definition of democracy here the state has to provide contested elections, requiring political parties.

1.1. Introduction

This chapter focuses on the criteria, conditions, and procedures for establishing a political party in the Member States of the European Union. By looking at the regulation of political parties at the Member States level, it seeks to provide important information relating to the potential regulation of parties at the European Union level.

In other words, this chapter aims at answering the following questions: how did the regulation on political parties evolve in the post-war period across Europe? What are the main trends regarding the regulation of parties over time? What are the variations across Members States? How do the criteria, conditions, and procedures vary across countries? The purpose of this chapter will be to assess the extent and the nature of the regulation
regarding the establishment of political parties in the Member States of the European Union.

In order to describe the evolution and the variety of regulation regarding criteria, conditions, and procedures for establishing a political party in the Member States of the European Union, this chapter relies on two sets of data. The first set of data is presented in section 2.2. and in Figure 1, which depicts the adoption of regulation on political parties in the post-war period across Europe (longitudinal data).

The second set of data is presented in section 2.3. and in Table 1, which summarizes the existing requirements for the registration of political parties in the 27 Member States of the European Union, using content analysis of legal documents. For this last purpose, we have primarily relied on existing Party Laws (PL) (\(^2\)). For countries in which such a law does not exist, we have used the relevant provisions from the Electoral Law (EL).

The content analysis of the Party Laws is based on the online database associated with the ERC funded project ‘Re-conceptualizing party democracy’ coordinated by Prof. Ingrid van Biezen (Leiden University) (\(^3\)). The Electoral Laws have been obtained from the ESCE project (Electoral System Changes in Europe since 1945) coordinated by Prof. Jean-Benoit Pilet (project leader for this study) and Prof. Alan Renwick (University of Reading, the United Kingdom). The ESCE project is financed by the Belgian *Fonds national de la recherche scientifique* (FRS-FNRS), by the Nuffield Foundation, and by the McDougall Trust.

Traditionally, party laws fulfil five major functions (Karvonen 2007, Casal-Bértoa et al, 2012):

1) they define what is a political party, what can be recognized as such in the country, and the procedures to be followed by parties to be legally recognized;
2) they regulate the types of activities in which parties may engage;
3) they define norms that have to be followed by parties in the way they are organized;
4) they set the sanctions that could be taken against parties that are not following the legal rules and norms of the country;
5) they organize the public financing of political party and the control of the finances in electoral campaign, but also between elections.

The overview concerns specifically the conditions and procedures for establishing and registering new political parties in the Member States, which corresponds to the first two functions; next chapter will discuss the third function. Therefore, the overview does not discuss the other functions of party laws, namely the regulations applying to political parties once they are established (sanctions, control, and public funding), or regulations applying to political parties at sub-national levels.

Excluded of this overview therefore are provisions relevant to:

- a) the registration of alliances or mergers of existing parties;
- b) the general / annual maintenance of party records;
- c) the registration for electoral competition;

\(^2\) We consider a Party Law (PL) to be the law which is called or specifically defines itself as a law on political parties, with the title of the law including a textual reference to political parties (e.g. Law on Political Parties, Party Law).

\(^3\) Available at www.partylaw.leidenuniv.nl
d) the eligibility for public funding;

e) the registration of sub-national organizational units;

f) the procedures for appeal against a refusal of the relevant authorities to register a political party;

g) any transitory provisions.

Furthermore, the overview deals with regulations to establish a political party, and therefore does not discuss provisions on the dissolution of parties, except when:

a) they refer to the necessary conditions for the registration of a party (such as when the membership falls below the minimum number needed for the creation of a new party); or

b) they contain provisions on the parties’ continued participation in the elections.

Finally, for the sake of brevity, we have excluded provisions pertaining to:

a) the legal definition of political parties, except in cases where party registration is necessary for the party to become a legal person;

b) the details on the permissible names and symbols of the party (which generally hold that they must not be offensive and must be clearly distinguishable from those of existing parties);

c) the details on what the statutes must contain (⁴).

This chapter is structured as follows. Section 1.2. provides the longitudinal perspective regarding the adoption of regulation on political parties in the post-war period across Europe. It aims at presenting the historical background regarding the issue. Section 1.3. describes in detail the data gathered for each Member State. Section 1.4. then develops a comparative analysis and key elements.

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⁴ The Party Law of Lithuania (2004) may serve as an example of the sometimes lengthy provisions pertaining to the parties’ statutes: ‘Political parties shall act in compliance with their Statutes. The Statute shall be the founding document of a political party. The Statute of a political party shall indicate: 1) the name of the political party; 2) the legal form of the political party; 3) the seat of the political party; 4) objectives of activities of the political party. The objectives of the political party must be defined expressly and properly, indicating the area and types of activities of the political party; 5) the conditions and procedure for joining and seceding from the party and exclusion from the party; 6) the rights and duties of members of the political party; 7) the procedure for establishing branches of the political party, and terminating their activities; 8) the competence, periodicity of a congress (meeting, conference) of the political party, its convening and the decision-taking procedure; 9) the collegial management bodies of the political party, their competence, the procedure for electing and recalling them, the term of office of the collegial management bodies, and their decision-making procedure; 10) the procedure for electing and recalling the leader of the political party, his competences and possible periods for which he may be elected; 11) the procedure of accountability of the management bodies of the political party to its congress (meeting, conference) and the procedure for control of their activities; 12) the procedure for amending the Statute and program of a political party; 13) the symbols of the political party, if the political party intends to have them; 14) the procedure for control of the use of the property and funds of the political party; 15) the duration of activities of the political party, if it is limited; 16) termination of the political party. The Statute of a political party may also provide for other provisions of the activities of a political party that are in compliance with the Constitution of the Republic of Lithuania, the Civil Code of the Republic of Lithuania, this Law and other laws. The Statute of a political party under foundation must be signed by a representative authorized by the founders of the political party. The amended statute of the founded political party shall be signed by the leader of the political party. There is no requirement for a notary to attest the authenticity of the signatures of the persons who signed the Statute of a political party’ (PL 6).
1.2. Longitudinal perspective

The adoption of regulation on political parties in the post-war period across Europe is depicted in Figure 1 (longitudinal data). It reflects a clear trend towards a greater regulation of political parties across Europe in the post-war period.

From this time line of the development of regulation of parties, three phases can be distinguished (Casal-Bértoa et al, 2012, p. 5). The pioneers in the regulation of parties were Germany, Finland, and Austria (5). In these cases, regulation is viewed as a response to the necessity of regulation of public finance of political parties. A second wave corresponds to the democratic transition in Portugal and Spain. There, party regulation was adopted to control the proliferation of parties in the new democratic environment. Finally, the fall of communism in Central and Eastern Europe has lead to the third phase in party regulation. The Party Laws adopted during this phase are very much inspired by the existing German Party Law. In these cases, the ambition was twofold (to regulate party creation and party activity, and to control party funding).

Figure 1. The Adoption of Party Laws in Post-War Europe

If there is a clear trend towards greater regulation of parties across Europe, not all countries have adopted a special Party Law (PL). Out of the 27 Member States of the European Union, 17 countries have adopted a special Party Law, whereas in 10 countries such a law does not exist. Countries with a Party Law tend to regulate the registration of political parties, as indeed other aspects of their behaviour, activity and organization, in much greater detail than countries where such a law is absent.


Note that these countries were not the first to adopt such regulations (Venezuela and Turkey are examples of earlier regulations). However, it is only after the adoption of Party Laws in these countries that the trend towards proliferation of party regulation can be observed (Casal-Bértoa et al, 2012).
This broad categorization between countries with and without a Party Law appears to roughly correspond with the newness of democracy and the continuity of democratic history, with democracies that have been established more recently or which were established after a period of non-democratic rule tending to be less reluctant to regulate parties than the older liberal democracies (van Biezen and Borz, 2011) (6).

In recent years, party regulation has not only become a more widespread practice but also a more broadly shared principle that political parties should be subjected to regulations and laws that govern their behaviour, activities and organization. As the Venice Commission has recently argued, at least ‘some regulation of internal party activities [is] necessary to ensure the proper functioning of a democratic society’ (7). This interpretation is also supported by the longitudinal evidence in the Table 1 (in Appendix), which unequivocally indicates that the registration requirements for political parties tend to increase rather than diminish over time.

1.3. Regulations in the 27 Member States

This section presents an overview of the existing requirements for the registration of political parties in the 27 Member States of the European Union (8), using content analysis of legal documents (Party Laws, or Electoral Laws). From the data that we have gathered, it appears that the Party Law or Electoral Law specifies conditions for the registration of new political parties in only roughly half of the countries. In other countries, such legal requirements are either absent or they are contained in other sources of law.

Our analysis is longitudinal, which implies that, where possible, we have attempted to trace changes over time by comparing the Party Law as it was first adopted with the version of the Party Law as it is currently in force. In case no significant changes over time were detected, a country is listed once, with a mention of the period covered in parentheses (e.g. Austria 1975-2003). In case the current Party Law contains important differences vis-à-vis the first law, we indicate the provisions as they applied for both, with an indication of the relevant years (e.g. Bulgaria 1990 and 2009). For countries that have not adopted a special Party Law, we have considered the most recent version of the Electoral Law (e.g. Netherlands 2011).

The overview largely refers to the texts taken verbatim from the relevant legal documents, although some editing has taken place to ensure readability and consistency of terminology.

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8 Except for Greece, for which no English-language copy of the relevant laws was available.

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1.3.1. Belgium

Belgium does not have a party law, and no conditions for establishing political parties are specified in electoral law.

The law only regulates parties once established, by organizing the state funding of parties and the control of their finances. But it does not give a definition of parties, nor the conditions for the registration of a political party. A party is any political group with elected representatives and that is eligible to claim for state funding.

1.3.2. Bulgaria (1990; 2006)

Bulgaria adopted a Party Law in 1990, which was thoroughly revised in 2006.

The PL of 1990 specifies two conditions to establish a political party: to provide party statutes and to gather the signatures of a minimum of 50 citizens. Indeed, the PL states that ‘a political party shall be established at a constituent assembly by the agreement of at least 50 citizens with voting rights. The constituent assembly shall adopt a statute and shall elect the party leadership bodies’ (PL7).

In terms of procedure, the PL stipulates that political parties shall be entered in a special register by the Sofia City Court, upon a written application submitted by that body of the party, which represents it according to the party’s statute. The application shall be supplemented with copies of the minutes of the constituent assembly, the party’s statute and the list of the names and addresses of the party members elected on the leading body, which represents it according to its statute. The Court shall consider the application within seven days of its submission, at an open session, according to the procedure of the Civil Procedure Code, in the presence of a public prosecutor (PL 9). The following data shall be entered in the register: the name, the seat, the statute of the party, the names of the members on the leading body of the party, and shall provide specimens of the signatures of the persons who represent it according to statute (PL 10). The Court’s ruling on the registration of the political party shall be promulgated in the State Gazette within seven days, upon which it shall acquire the status of a legal entity (PL 11).

The PL was revised in 2006 and new conditions and procedures were added. According to the new PL, a political party is established at the initiative of not less than 50 citizens with voting rights in accordance with the Bulgarian legislation who form a committee of initiative. The committee of initiative shall adopt a declaration of association in written form. The basic principles and goals of the political party shall be defined in the declaration of association. The committee of initiative shall publish the declaration of association in at least one national daily publication and open a subscription for the recruitment of founding members (PL 10). The constituent meeting of a political party shall adopt a charter of the political party with at least 500 founders. The constituent meeting shall elect the bodies of leadership and control of the political party, in conformity with the adopted charter (PL 13).

In terms of procedure, the PL states that ‘a political party shall be registered in the register of political parties with the Sofia City Court, following a written application by the party’s body that represents it according to the charter, submitted within a term of three months from the date of holding the constituent meeting. In order to be registered political parties shall submit in Court: a declaration of association; minutes of the constituent meeting; charter of the party; a list containing the names, PIN, permanent address and own-hand
signature of not less than 500 members – founders of the party, citizens with voting rights in accordance with the Bulgarian legislation; declarations of individual membership; notarized specimens of the signatures of those representing the political party; a list containing the names, PIN and permanent address of not less than 2 500 members; notarized declaration by the leadership of the political party about the authenticity of documents; certificate of uniqueness of the name’ (PL 15). Additionally, ‘the following circumstances shall be entered in the register of the Sofia City Court: name of the political party; seat and address of management; the charter of the political party; the names of the members of bodies of leadership and control of the political party; the names of persons who represent the political party according to its charter; dissolution of the political party; the names, respectively - the designation and address of liquidators’ (PL 17).

Finally, ‘the decision or refusal of court registration shall be subject to appeal or protest before the Supreme Court of Cassation under the procedure of the Civil Procedure Code within a term of 7 days from becoming aware of the court decision. Within a term of 14 days from filing the appeal or protest per par. 1 the Supreme Court of Cassation shall rule by a decision, which shall be final. Within a term of 7 days from the coming into effect of the decision on registration, the Sofia City Court shall register the political party in the register of political parties. A political party will acquire the faculty of a legal person from the day of entering the political party into the register of political parties with the Sofia City Court’ (PL 18), and ‘The Court decision for entering the political party in the register shall be promulgated in the State Gazette within a term of 7 days from its presentation’ (PL 19).

1.3.3. Czech Republic (1993; 2006)

Czech Republic adopted a Party Law in 1993, which was thoroughly revised in 2006.

The PL of 1993 recognizes political parties as legal entities (PL 3).

In terms of conditions, the PL specifies that ‘Applications for the registration of parties and movements shall be submitted by the preparatory committee of the party or movement which is only eligible to carry out activities aimed at creating a party or movement. Only citizens who are at least 18 years of age can become members of the preparatory committee. The registration application shall be signed by all of the members of the preparatory committee and shall include the first name and surname, birth number and place of residence of the preparatory committee members. In addition, they shall indicate which member of the preparatory committee is authorized to act in its name. The preparatory committee shall attach the following documents to the registration application: a) a petition signed by at least one thousand citizens requesting the creation of the party or movement. Each citizen signing the petition is obliged to write his/her first name and surname, birth number and place of residence, b) two copies of the statutes (organizational rules). The seat of the party or movement shall be located on the territory of the Czech Republic’ (PL 6).

As regard the procedure, ‘The registration application shall be submitted to the Ministry of Interior. If the Ministry does not notify the preparatory committee within 10 days from the receipt of its registration application, the registration application shall be deemed as having no deficiencies. If the preparatory committee does not agree with the Ministry’s notification, it may apply to the regional court within 15 days from its receipt of the notification, to obtain a statement that its registration application has no deficiencies. The regional court's decision may not be appealed. The registration proceedings shall commence on the day on which the Ministry receives the registration application with no deficiencies, or on the day on which the regional court decision becomes legally effective.
The Ministry shall notify the authorized representative of the preparatory committee without delay about the day of commencement of the registration proceedings’ (PL 7). The Ministry will refuse to register any party or movement whose articles are in contradiction with §1 through 5. Otherwise it shall execute the registration. The Ministry will register or refuse to register a party or movement within 15 days from the day of commencement of the registration proceedings. If the Ministry registers a party or movement, it shall send a copy of its articles bearing the registration date to the authorized representative of the preparatory committee within the period specified in section 2. If the registration application is accepted, § 47 of the administrative procedure code shall not be applied to the decision on registration. If, within 30 days from the commencement of registration proceedings, the authorized representative of the preparatory committee does not receive a decision by the Ministry refusing the registration, the party or movement shall be deemed to be created on the day following this period; this day shall become the day of its registration. At the request of the authorized representative of the preparatory committee, the Ministry shall send him/her one copy of the articles bearing the registration date. The preparatory committee may appeal to the court for a review of the decision refusing the registration, within 60 days following its receipt. The competent court for review is the Supreme Court of the Czech Republic. A lawful court decision revoking the Ministry’s refusal of registration, shall replace the registration. At the request of the authorized representative of the preparatory committee, the Ministry shall send him/her one copy of the articles bearing the registration date. The Ministry registers the party or movement by entering it into the Register of Parties and Movements. (PL 8). Within 7 days after its registration, the Ministry shall report the creation of a party or movement, including its name, abbreviated name and seat, to the Czech Statistical Office, which keeps a record of the parties (PL 9).

In 2006, the PL was amended. The conditions required to establish a political party did not change, but the procedures were slightly modified. More specifically, PL 6 was amended to stipulate that the preparatory committee consists of at least three members. PL 8 regulating the registration authority was also amended: ‘The Ministry shall refuse to register any political party or movement whose articles contravene Articles 1 through 5 and Article 6, Sections 3 and 4. All other political parties and movements shall be duly registered. The Ministry shall register or refuse to register a political party or movement within 15 days after the beginning of registration proceedings. If a political party or movement is registered, the Ministry shall send one copy of its articles, in which it shall state the date of registration, to the authorized representative of the preparation committee within the time limit specified in Section 2 herein. If the authorized representative of the preparation committee is not informed by the Ministry within 30 days after the beginning of registration proceedings that registration has been refused, a political party or movement shall be regarded as duly established on the day following the said period; this day shall become its date of registration. On request, the Ministry shall stamp the date of registration on one copy of the articles of the political party or movement and forward it to the authorized representative of the preparation committee. The preparatory committee may appeal against the Ministry’s registration refusal to a competent court of justice within 30 days following its receipt. The Supreme Court of the Czech Republic shall review all appeals. A legally effective decision of a court of justice revoking the Ministry’s registration refusal shall be regarded as a registration approval. On request, the Ministry shall stamp the date of registration on one copy of the articles of the political party or movement and forward it to the authorized representative of the preparation committee. The Ministry registers political parties and movements by entering them into its register of political parties and movements. Each newly established political party or movement,
including its name, abbreviation and registered office, shall be reported by the Ministry to the Czech Statistical Office no later than 7 days following its registration’.

Finally, PL 9 was amended: ‘The register of political parties and movements administered by the Ministry is a public list featuring all statutory information on individual political parties and movements. It also includes a collection of documents containing articles, resolutions on establishment of bodies, resolutions on article changes and resolutions on dissolution of political parties and movements. The register of political parties and movements is open to the public. Everyone is entitled to search in the register of political parties and movements and to make duplicates and excerpts. On request, the Ministry shall issue an official confirmation stating whether a political party or movement is or is not registered. The following data are entered into the register of political parties and movements: a) the name, abbreviation and registered office of the political party or movement and its registration number and registration date, b) the date of registration of article changes, c) the date of dissolution of the political party or movement and the cause of its deletion. Additional details to be entered into the register of political parties and movements: a) the identification number of the political party or movement, b) first names, surnames, dates of birth and permanent addresses of all persons acting as statutory bodies or members of statutory bodies of the political party or movement and the way they act on behalf of the political party or movement, c) suspension of activities, d) dissolution, e) entering into liquidation (including the liquidator’s first name, surname, date of birth and permanent address), f) adjudication of bankruptcy (including the receiver’s first name, surname and permanent address), rejection of application for adjudication of bankruptcy due to lack of assets, initiation of settlement proceedings. All changes as defined in this article must also be recorded in the register of political parties and movements. Identification numbers of political parties and movements are allocated by the Czech Statistical Office’.

1.3.4. Denmark

The conditions and procedures to establish a political party in Denmark are stipulated in their Electoral Law (EL). The only condition to establish a political party mentioned in the EL refers to the number of signatures needed. It must correspond to at least 1/175 of the valid votes cast at the previous election (amounting to 19 769 in 2007).

As regard the procedures, the EL stipulates that new parties have until 15 days before polling day to register, and do so by requesting registration and by presenting signatures on a special form from voters supporting the registration of the party in question. The German Minority Party can participate in general elections without presenting signatures, but has not done so since 1971. All signatures must be checked by the voter’s local municipal authorities – normally at the party’s request – to verify that the signer has voting rights. After this validation the form is not returned to the party, but to the signer, who must forward it to the party, provided the voter still wishes to participate in the registration of the party. The latter part of the procedure was implemented in 1989 in order to improve verification of the signatures and to impose a modest barrier on the registration of new parties.

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9 English version available online, accessed 4 May 2012:
http://www.thedanishparliament.dk/Publications/~/media/Pdf_materiale/Pdf_publikationer/English/The%20Parliamentary%20Electoral%20System%20in%20Denmark_samlet%20pdf.ashx.
parties. The registration of new parties takes place centrally, in the Ministry of the Interior and Health. The Ministry counts and scrutinizes the forms with voter signatures to ensure (1) that voters who support the registration of a new party only sign one form, and (2) that voters do not sign for more than one new party. The scrutiny is carried out manually, as computerized scrutiny is not allowed. Before registration, the Election Board has to approve new party names to ensure that such names are distinguishable from party names already in use. The Ministry of the Interior and Health must publish the official list of registered parties as well as their assigned party letters in the official Gazette as soon as possible after the 15th day before an election.

1.3.5. Germany (1967-2004)

The German Party Law was first introduced in 1967, and was later amended on several occasions. The current version of the law has been adapted after 1994 and the adoption of the law on the state funding of political parties. For the sake of brevity, this presentation focuses on the current version of the PL.

The German PL is one of the most extensive and detailed PL in Europe. It is linked to the fact that the German PL defines political parties as central entities for the good functioning of democracy. As mentioned in article 1 of the German PL, ‘Political parties are a component of the free democratic basic order required under the Constitution. [...] The parties shall participate in the formation of the political will of the people in all fields of public life, in particular by exerting influence on the shaping of public opinion; inspiring and furthering political education; promoting active public participation in political life; training capable people to assume public responsibilities; participating in federal, Land and local government elections by nominating candidates; exerting influence on political developments in parliament and government; incorporating their defined political aims into the national decision-making process; and ensuring continuous, vital links between the people and the instruments of state’.

The German PL contains many elements regulating aspects of the political parties. First, the law imposes the recurrent participation to electoral competition. A party might lose its legal status if it has not participated to any federal or Land elections in the last six years. Second, German parties have to be active on the German territory, meaning that political organizations will not be recognized as political parties if: 1) most of their members or the members of their executive body are foreigners; or 2) their registered office is located outside the purview of the present Act (PL 2). In addition, and this differentiates the German PL from most other PLs, the German PL regulates extensively the internal organizations of political parties. It first imposes to party the adoption of party statutes that include must include provisions concerning:
(a) the name of the party;
(b) the acceptance and resignation of party members;
(c) the rights and obligations of party members;
(d) disciplinary procedures against party members and local party organizations;
(e) the general structure of the party; and
(f) the composition and powers of the executive committee and other organs of the party.

The PL also contains elements on the functional and territorial organization of parties. It defines the right and responsibilities of the various organs of the party (members’ assembly, delegates’ assembly, executive committee, general party committee, and party arbitration courts). For example, the PL stipulates that members and party delegates shall have equal voting rights (PL 10). As regard the territorial organization of the party, the PL
specifies that parties shall be organized in regional branches (PL 7). It also establishes the sanctions that the central party can impose to the regional branches (PL 16). Finally, the German PL imposes to political parties to be organized democratically. This general principle is translated into detailed provisions on how candidates shall be nominated for election, or on how frequently the executive committee of the party should be renewed (PL 1). Regarding the selection of candidates, the PL for example prescribes that ‘the nomination of candidates for election to all levels of government must be by secret ballot’ (PL 17). The Federal Electoral Law complements this article by allowing the selection of candidates to be decided by either an assembly of party members or of party delegates.

Interestingly, although the list of criteria for being recognized as a political party is long in the German PL, there are no clear and formal procedures for registering a political party. The registration of parties in Germany is associated to their participation in elections, and is therefore organized by federal or Landes electoral laws that complement the PL. The general scheme is that parties are required to give a notification of their intention to participate to election administration in charge of the election. The notification includes the name of the party (and its acronym) and shall be signed by three members of the party’s national executive committee. The party should also provide its statutes and articles, its program, and the names and functions of the executive members of the party and its local branches. The electoral administration then decides if the political grouping could be recognized as a ‘party’. The recognition as a political party is also central for the eligibility of parties to public funding. Finally, the control of the conformity of political parties to the criteria of the party law is not only a competence of the administration in charge of elections. The Federal Constitutional Court (FCC) also plays a crucial role, especially for making sure that political parties respect the principles of democracy. The FCC can decide to ban a political party because the party goals are threatening democracy.


Estonia adopted a party Law in 1994, which was revised in 2010.

The PL of 1994 defines the conditions to establish a political party. According to PL 1, ‘A political party is a voluntary political association of Estonian citizens and which is registered pursuant to the procedure provided for in this Act and the objective of which is to express the political interests of its members and supporters and to exercise state and local government authority. A political party shall be a non-profit association’ (PL 1).

The PL also regulates the sustainability of political parties: ‘If a political party has not received any electoral mandates in two subsequent elections of the Riigikogu, the political party shall be erased from the register and the activity of the political party shall be terminated’ (PL 2).

As regard the procedures, the Estonian PL of 1994 specifies that ‘A political party shall be founded at a foundation meeting where a decision regarding the foundation and the statutes of a political party are adopted and the leadership and internal audit committee are elected. A political party shall be registered if it has at least 1 000 members’ (PL 6), and that ‘For registration of the statutes of a political party, an application of registration

10 The Federal Electoral Committee in the case of federal elections.
11 For existing parties that have elected representatives in the incumbent assembly, the procedure does not hold.
shall be presented to a state authority authorized by the Government of the Republic. The location (address) and phone number of the leadership of the political party shall be presented in the application. The following shall be appended to the application of registration: 1) the statutes and a platform signed by the members authorized by the leadership; 2) a copy of the minutes of the foundation meeting which contains the time and location of founding the political party, the number of participants and the amount of votes cast in favour of founding the political party; 3) a list of members of the political party; 4) a sample or sketch of the insignia of the political party if these are prescribed by the statutes’ (PL 8).

The PL was revised in 2010 and elements were modified in terms of procedure. More specifically, PL 8 was amended: ‘The following shall be appended to the application of a political party for entry in the non-profit associations and foundations register: 1) a platform signed by the members of the leadership; 2) a list of members of the political party, which contains members' names, personal identification codes and the day, month and year of becoming a member of the political party; 3) a sample or sketch of the insignia of the political party if these are prescribed by the statutes’. PL 2 was also amended: ‘If the number of members of a political party falls below 1 000 and voluntary dissolution has not commenced, the registration department of a court may request the commencement of compulsory dissolution. The activities of a political party whose activities or aims are directed at changing the constitutional order of Estonia by force shall be terminated pursuant to the procedure provided for in the Constitutional Review Court Procedure Act’ (PL 12).

1.3.7. Ireland (1992-1997)

In Ireland, the conditions and procedures for establishing a political party are stipulated in the Electoral Law (EL). A political party may apply to the Registrar to be registered in the Register of Political Parties. The Registrar registers any political party which applies for registration, and which in the opinion of the Registrar is a genuine political party, and which is organized in the State or a part thereof to contest a Dáil election, a European election or a local election. The following particulars shall be entered in the Register of Political Parties in respect of a political party registered therein: (a) the name of the party, (b) the address of the party's headquarters, (c) the name or names of the officer or officers of the party authorized to sign certificates authenticating the candidature of candidates of the party at elections, (d) the type or types of election for which the party is registered as being organized to contest, (e) where a party is registered as organized to contest an election in a particular part of the State, a reference to that fact. The Registrar shall maintain a copy of the Register of Political Parties at his office and shall permit any person to inspect such copy and to take a copy thereof on payment of a fee not exceeding the reasonable cost of copying at such times and subject to such conditions as the Registrar considers appropriate. The Registrar may require any person to give any information in his possession which the Registrar may require for the purpose of his duties under this section. The following provisions shall apply in relation to a party registered in the Register of Political Parties: (a) where the party is registered as organized to contest a particular type or types of election, the registration shall have effect only in relation to elections of the type or types concerned; (b) where the name of the party includes a reference which distinguishes the party as operating is a particular part only of the State, the registration shall have effect only in relation to that part of the State. (EL 25)
1.3.8. Spain (1978; 2002)

Spain adopted a Party Law in 1978, which was revised in 2002.

The PL of 1978 stipulates the conditions and procedures to establish a political party: ‘Political parties will acquire legal status on the twenty-first day following the date their leaders or promoters deposit in the Register available for such purposes in the Ministry of the Interior a notarized certificate signed by them with express record of their personal identity details, including or attaching the articles of association based on which the party is to be governed. Within the twenty days following the deposit mentioned in the previous point, the Ministry of the Interior will proceed to register the party in the Register, without prejudice to that established in the following article. If the registration takes place prior to the above-mentioned period, the party will acquire legal status as of that registration date’ (PL 2).

The PL was amended in 2002 and new rules were added. More specifically, the conditions now specify that ‘The promoters of a political party must be individuals of legal age in full enjoyment and exercise of their rights, not subject to any legal condition on the exercise of such rights, who have not been criminally condemned for illegal association or for any serious crimes’ (PL 2).

In terms of procedure, ‘The formation agreement must be formalized through a founding charter, which must be notarized and always contain the personal identification of the promoters, the name of the political party to be formed, the members of the provisional management bodies, the address, and the statutes on the basis of which the political party is to be governed. The name of a political party may not include terms or expressions that may lead to error or confusion regarding its identity or which contravene the laws or the fundamental rights of citizens. Moreover, the name may not coincide, be similar to or identified with, even phonetically, the name of any other political party previously registered in the Register or declared illegal, dissolved or suspended as a result of a judicial decision, the identification of individuals, or the name of pre-existing entities or registered trademarks. Political parties acquire legal status on registering the party in the Register of Political Parties which, for such purposes, will be in place in the Ministry of the Interior, after presenting the founding charter signed by the promoters, together with the documents certifying the fulfilment of the requirements established in this Organic Law’ (PL 3).

Furthermore, ‘The promoters of a political party will take all the necessary steps to register the party. The promoters of an unregistered political party will be personally, jointly and severally liable for any obligation assumed with third parties if they stated that they were acting on behalf of the party. Within twenty days of presenting the full documentation in the Register of Political Parties, the Ministry of the Interior will register the political party in the Register. However, this twenty-day period may be suspended if the Ministry deems it necessary to initiate any of the procedures set forth in the following article. Except in the above-mentioned cases of suspension of the twenty-day period, after said period available to the Ministry of the Interior for registering the party, the registration will be deemed made, thereby conferring legal status to the political party, making the foundation charter and the statutes public, binding the public authorities, and offering a guarantee to third parties with dealing with the party and to its members. The registration of the political party in the Register will be valid indefinitely, as long as its suspension or dissolution is not recorded in the Register. The latter may take place if the party notifies the decision to
dissolve the party, made in accordance with the provisions of its statutes, or if judicially declared illegal and dissolved or suspended” (PL 4). Finally, “The administrative proceedings associated with the registration of the political party may be appealed in the contentious-administrative jurisdiction, in accordance with the provisions of the Law on the Contentious-Administrative Jurisdiction’ (PL 5.5).

1.3.9. France

France does not have a party law, and no conditions for establishing political parties are specified in electoral law.

The law only organizes the state funding of parties and the control of their finances. But it does not give a definition of parties, nor the conditions for the registration of a political party. A party is any political group submitting its financial reports to the Commission Nationale des Comptes de Campagne et des Financements Politiques.

1.3.10. Italy

Italy does not have a party law, and no conditions for establishing political parties are specified in electoral law. Italy has no register of political parties and the rules for party formation do not differ from those for the establishment of private associations. Moreover, because Italian parties are not legal persons (they fall in the broad category of ‘non-recognized associations’, under the Civil Code, articles 36-38), the rules for their establishment are extremely loose.

The Electoral Law establishes rules for the presentation of lists of candidates for the elections of the Chamber of Deputies: Political parties and organized political groups that intend to present lists of candidates must deposit the symbol (/logo) they want to distinguish themselves in the single districts at the Ministry of Interior. Together with the deposit of the symbol (/logo), the name of the party or of the political group must be indicated (EL 14). The deposit of the symbol must take place not before 8.00 of the 44th day and not after 16.00 of the 42nd day before the elections, by an official representative with a notary authenticated mandate from the president or the secretary of the party or of the organized political group (EL 15). Within two days after the deadline for the deposit, the Ministry of Interior returns one copy of the symbol (/logo) to the person who deposited it, with a declaration of the regularity of the deposit (EL 16). These requirements hold for both the elections to the Chamber of Deputies and for the Senate. The minimum number of signatures needed in order to present electoral lists instead varies for the elections of the two chambers and is dependent on the number of voters registered in the electoral districts. Signatures are not needed for political parties or political groups that are already represented in the Italian parliament.

1.3.11. Cyprus (2011)

The PL in Cyprus stipulates the following conditions and procedures to establish a political party: ‘(1) Subject to the provisions of section (3), each political party is entered into the Registry after submitting its statutes and a corresponding application for registration to the Registrar. The establishment and the pursuit of the activities of a political party is free, but it must be exercised within the framework of the respect for the Constitution and the laws, and its internal structure and operation must serve the free function of democracy. (2) The application for registration under section (1) shall bear the signature of the leader or chairman of the political party or the head of the party in accordance with the statutes and
procedures of the same, or of any other duly authorized representative of the political party, as applicable. (3) Political parties that upon the entry into force of this Law are parliamentary parties shall be automatically registered in the Registry without submitting an application for registration as provided under section (1), by submitting their statutes to the Registrar within three months from the date of entry into force of this Law. (4) Once the Registrar registers the political party in the Registry or the latter is automatically registered, he shall issue a registration certificate to the party. (5) The registration certificate is accepted as evidence of its content and of the prerequisites of this Law’ (PL3).

1.3.12. Latvia (2006)

The Latvian Party Law of 2006 stipulates that ‘A party shall acquire the status of a legal person with its entering into the Register of Political Parties’ (PL 3). Further conditions mention that ‘Party founders may be citizens of Latvia who have reached age of 18 years. The number of founders shall not be less than 200. A party alliance may be founded by two or more parties registered according to the procedures prescribed by law. The party alliance is prohibited from founding another party alliance’ (PL 12).

As regard the procedure, the PL stipulates that ‘In order to found a party, persons who join in a party shall take a decision at the meeting of founders regarding the founding of the party, shall approve the program and statutes of the party, elect an executive board and an audit institution for economic and financial activities. The decision regarding the founding of a party shall include the following information: 1) the name of the party; 2) the purpose of the party activities; 3) the rights and duties of the founders, if the founders are in agreement thereof; 4) the authorization of all the founders for at least two of the founders to sign the statutes and the application to the Party Register authority. The decision of the meeting of founders regarding the founding of a party shall be recorded in the minutes of the meeting of founders, in which the number of founders who are present at the meeting of founders and take the decision regarding the founding of the party, and other decisions taken at the meeting of founders thereof shall be indicated. The minutes of the meeting of founders shall be signed by the Chairperson of the meeting of founders and the recorder of minutes thereof’ (PL 13).

The PL also stipulates that ‘Within three months after taking of a decision regarding the founding of a party the authorized representatives of the founders of the party shall submit an application to the Party Register authority. The following shall be attached to an application for entering of a party into the Party Register: 1) the decision regarding the founding of the party; 2) the program of the party; 3) a list of not less than 200 party founders, in which the name of the party is indicated and the signature of each founder certified by notary according to the procedures prescribed by law is indicated next to the given name, surname and personal identity number of the relevant founder; 4) the statutes of the party; 5) a list of the members of the executive board of the party; and 6) a document that confirms payment of the State fee and payment for publication in the newspaper Latvijas Vēstnesis. The application shall be signed by at least two of the authorized representatives from among the founders. A document that approves the authorization of the relevant persons shall be submitted to the Party Register authority’ (PL 16).

The procedure also mentions that ‘The following shall be indicated in the Party Register: 1) the name of the party; 2) the legal address of the party; 3) the objectives of the party activities; 4) the territorial divisions of the party, if any; 5) the date on which the decision regarding the founding of the party was taken; 6) the given name, surname and personal
identity number of the members of the executive board, indicating whether they have the right to represent the party individually or collectively; 7) the term of duration of the party, if the party has been established on a temporary basis; 8) information regarding the prohibition of public activities or other activities or the suspension, termination or continuation of activities of the party, the insolvency, liquidation or reorganization of the party; 9) information regarding the appointment of a liquidator, indicating his or her given name, surname and personal identity number; 10) information regarding the appointment of an administrator in an insolvency case, indicating the given name, surname and personal identity number of the administrator; 11) date of the making of the entry. This information, except the legal address of the party, its territorial divisions, and personal identity numbers, shall be published in the newspaper *Latvijas Vēstnesis*. The procedures for publication, the amount of payment and the procedures for collection thereof shall be determined by the Cabinet’ (PL 18).

Finally, 'An entry in the Party Register shall be made based on the application of the relevant party or court adjudication. The sample form of the application shall be approved by the Cabinet. A decision regarding the making of an entry in the Party Register, the refusal to make an entry or the postponing of the making of an entry shall be taken by an official of the Party Register authority within seven working days after receipt of an application. Within the same period of time, the official of the Party Register authority shall take a decision regarding the making of an entry in the Party Register, based on the court adjudication. [...] A decision regarding the refusal to make an entry in the Party Register or the postponing of the making of an entry thereof shall be substantiated. A reasonable period of time for the elimination of deficiencies shall be indicated in the decision regarding the postponing of the making of an entry. An official of the Party Register authority shall send the decision specified in Paragraph two of this Section to the applicant within five working days after taking of the decision. The applicant has the right to dispute and appeal the decision by an official of the Party Register authority according to the procedures of the regulatory enactments regulating administrative procedure. An entry in the Party Register shall be made on the same day when the decision is taken regarding the making of an entry’ (PL 20).

1.3.13. Lithuania (1990; 2004)

Lithuania adopted a Party Law in 1990, which was revised in 2004.

The PL of 1990 stipulates that ‘Political parties and political organizations shall function in accordance with the Constitution, this law, and other laws of the Republic of Lithuania, and conduct their activity according to party charters registered in the established manner’ (PL2). The PL sets conditions for establishing political parties: ‘In order to found a political party or a political organization, the party or the organization must have no less than four hundred members in Lithuania, a charter approved by its meeting or conference, a program, and an elected leadership. The program and charter of the party or organization that is being founded may not contradict the laws of the Republic of Lithuania’ (PL 3).

As regard the procedure, the PL asks that ‘Political parties and political organizations shall be registered by the Ministry of Justice of the Republic of Lithuania. The founders shall present to the Ministry of Justice of the Republic of Lithuania an application the registration of the political party or political organization no later than within a month after the adoption of the charter, program and the election of the governing bodies. The application shall be signed by the leader stating the address and the telephone number of the party or political organization headquarters. The following documents shall be appended to the application
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for registration: charter, program in two copies; a copy of the minutes of the constituent meeting which must indicate the date and place of the founding of the political party or political organization, as well as stating the number of founders who voted for the founding of the political party or political organization; founders' list where full name, date of birth, citizenship and personal code, address of the place of residence, occupation, certificate testifying to his not being a member of other political parties or political organization. The above data must be certified by each founder's signature as well as by the signature of the person who compiled the founders' list; samples of symbols, banners of political parties or political organizations or their drafts. The charter, program, minutes and the founders' list must be signed by the leader of the political party or political organization. The Ministry of Justice shall examine the above-mentioned documents within a month from the day of their filing and shall register the political party or political organization provided that all the required documents have been filed and there have been no violations of the requirements of this law. In case not all documents are filed, the founders shall be notified thereof in writing and the deadline for the presentation of the missing documents shall be set. The term may not be longer than one month. The political party or political organization shall be registered within a month from the day of filing of the missing documents. A political party or political organization which misses the deadline for the filing of documents set forth in this law as well as having violated other requirements of the law shall not be registered. Upon refusal to register a political party or political organization, the founders shall be notified thereof in writing and the reasons for refusal shall be stated. A political party or political organization which has been refused registration on the grounds specified in this law shall have to settle the issue of its registration anew in accordance with the procedure established by law. The name and symbols of a political party or political organization which is being registered must be different from the names and symbols of the already registered political parties and political organizations or public organizations. A political party or political organization must within 15 days notify the Ministry of Justice in writing of the changes in the charter, program, presenting it with the amended charter, program and a copy of the minutes of the meeting which changed them. If a political party or political organization changes its name it shall be reregistered in the manner established in this law. A political party or political organization and their structural subdivisions specified in their charter shall be legal persons from the day of registration of the party or political organization’ (PL 4). Finally, ‘Refusal to register a political party or a political organization may be appealed against to the Vilnius County Court which shall consider the appeal within 3 days’ (PL 8).

This PL was modified in 2004. A new conditions was added, which stipulates that ‘A political party shall be a public legal person that has its own name, has been established pursuant to this Law, and whose purpose is to meet the political interests of its members, assist in expressing the political will of the citizens of the Republic of Lithuania in enforcing State power and the right to self-government’ (PL 2). The PL was also amended as regard the conditions stipulated in PL 1990: ‘Founders and members of a political party must be citizens of the Republic of Lithuania aged 18 and over. Founders of a political party shall become members of this political party from the registration of the political party in the Register of Legal Entities. At the same time a citizen of the Republic of Lithuania may be a founder or member of one political party only. For a political party to be established it shall have not less than one thousand founding members. Such founders at their own or their representatives' congress (meeting, conference) shall adopt the Statute, program of the political party and elect the management bodies of the political party. A founder may, in accordance with the procedure laid down by the Civil Code of the Republic of Lithuania, authorize any other person to represent him in the founding congress (meeting, conference) of the political party’ (PL 5).
As regard the procedures, the PL of 2004 stipulates that ‘Political parties shall be registered in the Register of Legal Entities. The documents which must be submitted for the registration of a political party in the Register of Legal Entities, and its removal thereof, and the procedure for the registration of a political party in the Register of Legal Entities, and its removal thereof, also registration of changes in the data or the Statute of a political party shall be set out in the regulations of the Register of Legal Entities. The authenticity of the data presented by political parties to the Register of Legal Entities, the compliance of the Statute, programs or their amendments with the requirements of laws shall be attested and the documents confirming that the political party may be registered because the requirements set out by this Law have been fulfilled and the circumstances provided for in this Law have emerged shall be issued by the Ministry of Justice of the Republic of Lithuania (hereinafter referred to as the Ministry of Justice) within 30 days from the day of receipt thereof of all documents and data specified in the regulations of the Register of Legal Entities. In the event of failure by a political party to present all the documents and data specified in the Register of Legal Entities, the Ministry of Justice shall, not later than 15 days from the receipt thereof, inform, in writing, a representative authorized by the founders of the political party, specifying the shortcomings which must be eliminated. When all missing documents and data have been presented, the 30 days’ term shall be counted anew from the day of presenting these documents and data. The Ministry of Justice shall refuse to attest the authenticity of the documents submitted by a political party, the compliance of its Statute, programs or their amendments with the requirements of laws, where the purposes, objectives and methods of activities of the political party indicated in the Statute, program of the political party or the amendments thereof conflict with the Constitution of the Republic of Lithuania, the Civil Code of the Republic of Lithuania, this Law and other laws, and the presented data are not correct. When verifying the authenticity of the presented data or attesting the compliance of the Statutes, programs, their amendments with the requirements of laws the Ministry of Justice shall have the right to appeal to other public authorities and obtain findings from them. The refusal by the Ministry of Justice to attest the authenticity of the data submitted by a political party, the compliance of its Statute, programs, their amendments with the requirements of laws may be appealed in court in accordance with the procedure laid down by law. Political parties shall be considered founded as of the day of their registration in the Register of Legal Entities. Political parties intending to participate in elections shall, not later than 65 days before the first elections to be held that year, submit their membership lists to the Ministry of Justice in accordance with the procedure laid down by the Government of the Republic of Lithuania. If a political party does not intend to participate in the first elections to be held that year, it may submit the said lists not later than 65 days before another election to be held that year in which the party intends to participate. The membership lists shall indicate the name, surname, date of birth, and the residence address of the members of the political party. These data must be confirmed by the signature of the leader of the political party. Computer media containing these lists shall also be presented to the Ministry of Justice. The Ministry of Justice shall notify the Central Electoral Committee that the number of the members of the political party meets the requirements of this Law’ (PL 8).


The PL stipulates that ‘The scope of this Act covers social organizations that have registered members, and which declare before the court registering them that they acknowledge the provisions of this Act as binding upon them’ (PL 1).
1.3.15. Netherlands (2011)

The Netherlands do not have a specific Party Law and there are no general registration rules for parties. There are registration rules applying for elections, via the Electoral Law.

The EL stipulates that ‘A political grouping which is an association having full legal capacity may submit a request in writing to the central electoral committee for an election to the House of Representatives to enter the appellation by which it wishes to be known on the list of candidates for that election in a register kept by the central electoral committee. Requests filed after the forty-third day before nomination day shall be disregarded for the purpose of the next election. A deposit of €450 shall be paid to the central government for the registration referred to in subsection 1. The person who makes the payment shall be given proof of payment. The deposit shall be returned after a valid list of candidates has been filed for the next election following the decision on the request. The following shall be filed with the request: (a) a copy of the notarial instrument containing the association’s charter; (b) proof of entry in the commercial register referred to in section 2 of the Commercial Registers Act 1996; (c) the proof of payment referred to in subsection 2; (d) a declaration by the political grouping designating its authorized agent and deputy agent at the central electoral committee, which shall apply until it is replaced by another. [...] The decision of the central electoral committee on the request shall be forwarded to the agent. Notice of the decision shall be given in the Government Gazette” (G1).

It also stipulates that ‘An interested party may file an appeal against a decision as referred to in sections G 1, G 2, G 3 and G 4 with the Administrative Jurisdiction Division of the Council of State’ (G5).

1.3.16. Austria (1975-2003)

The conditions of procedures to establish a party in Austria are regulated in a Party Law. The PL stipulates that ‘The founding of political parties is free, unless otherwise provided for under the Federal Constitution. Their activity should not be restricted by special legal provisions’ (PL1.3). In terms of conditions, the PL states that ‘Political parties are to adopt a statute that must be promulgated in a periodical and submitted to the Federal Ministry of Interior. In the statute are to be specified the organs of the party, and their representatives before any third parties, as well as the rights and obligations of the party members. By submitting its statute, the political party acquires legal personality’ (PL1.4). Furthermore, it stipulates that ‘The formation of political parties is free to the extent that the Federal Constitution Act does not provide otherwise. Their activities shall not be subject to any restrictions by particular provisions of the law’ (PL1.3). Finally, the PL mentions that ‘The political parties shall adopt by-laws to be published in a periodical product of printed matter and to be deposited with the Federal Ministry of the Interior. [...] The bylaws shall in particular specify the organs of the parties and which of them are authorized to represent them vis-à-vis third parties, as well as the rights and duties of the members. The legal structure of the political parties shall be legally effective as soon as the by-laws are’ (PL1.4).

1.3.17. Poland (1990; 2008)

Poland adopted a Party Law in 1990, which was revised in 2008.

The PL of 1990 stipulates that ‘A political party shall acquire legal personality the moment an application is made to register it in the register maintained by the Provincial Court in Warsaw. The application should include the name and seat of the party and the manner of
appointment of a body authorized to represent it for the purpose of performing acts in law. It may also include the specimen of the party’s symbol(s). The application should also include full names and addresses and signatures of at least 15 persons having full capacity to perform acts in law. Three out of these persons shall submit the application in person, assuming responsibility for the truthfulness of the data included therein. Acknowledgement of the application shall be the proof of acquisition of legal personality. A political party should submit to the register full names and addresses of persons making up the body referred to in paragraph 2.6. The register of political parties shall be open to public inspection. Anyone shall have the right to receive certified copies and extracts from this register’ (PL 4).

The PL of 2008 adds conditions and elements of procedure. More specifically, it stipulates that ‘A political party shall have an application made for its entry in the register of political parties, hereinafter referred to as the “register” maintained by the District Court in Warsaw, hereinafter referred to as the “Court”. The application should include the party’s name, abbreviated name and the address of its seat as well as full names and addresses of persons making up its governing bodies authorized under its constitution to represent the party in dealings with third parties and to incur financial obligations. The application may be appended with the specimen of the political party’s graphic symbol. The application should be appended with: 1) the political party’s constitution, 2) the list containing full names, addresses of residence and PESEL identification numbers and personal signatures of at least 1 000 citizens of the Republic of Poland supporting the application who are aged 18 or over and have full capacity to perform acts in law; each page of the list should bear the name of the political party for which an entry in the register is sought. The name, abbreviated name and graphic symbol of a political party should be distinctly different from names, abbreviated names and graphic symbols of the already existing parties. The application shall be made by three persons from among those referred to in paragraph 2, who assume responsibility for the truthfulness of data included in the application’ (PL 11).

In terms of procedure, ‘the Court shall make an entry of a political party in the register immediately, if the application complies with the provisions of law. […] The Court shall deliver its judgment in the form of a decision. The decision on the entry may be appealed against, unless the provisions of this Act provide otherwise’ (PL 12) and ‘A political party shall acquire legal personality upon its entry in the register’ (PL 16). Finally, ‘Cases concerning registration of a political party in the register shall be governed by the provisions of the Code of Civil Procedure concerning non-litigious procedure, having regard to the provisions of this Act, providing that an appeal of last resort may only be made against decisions of the second-instance court regarding registration in or striking from the register’ (PL 22).

1.3.18. Portugal (1974; 2003)

Portugal adopted a Party Law in 1974, which was revised in 2003.

The PL of 1974 stipulates that ‘Political parties enjoy legal personality under the terms of the present decree-law and are regulated by the provisions established in Decree-Law No. 594/74, of 7th November, insofar as these do not contradict the present decree-law’ (PL 1). Furthermore, it mentions that ‘No authorization shall be required for the constitution of any political party. Parties acquire legal personality upon registration in the register of the Supreme Court of Justice. The registration of a party must be petitioned by not less than five thousand citizens, over the age of 18, with no regard to gender, race or color, who are resident on the mainland or adjacent islands and in full possession of their political and civil
rights. The petition of registration, addressed to the president of the Supreme Court of Justice, must be accompanied by a document proving the citizens’ registration in the electoral census, and also by a list of the petitioners, and the party’s charter, name, acronym and symbol. The signatures on the petition, which will be made on an ordinary piece of paper with twenty-five lines and no seal, will be recognized, free of charge, by a public notary’ (PL 5).

The PL adopted in 2003 stipulates that ‘Political parties shall possess a legal persona and the legal capacity that is appropriate to the achievement of their purposes, and shall be formed for an indefinite period of time’ (PL3) and that ‘Recognition of a political party, with the allocation of a legal persona, and the commencement of its activities shall be dependent on its entry on a register that shall be kept at the Constitutional Court’ (PL 14).

In terms of conditions and procedures, the PL stipulates that ‘Applications to register a political party must be made by at least 7 500 registered electors. Applications to register a political party shall be made in writing, to be accompanied by its draft statutes, a declaration of principles or manifesto, and its name, initials and symbol, and shall include the full name, identity card number and voter's card number of all the signatories’ (PL 15). Furthermore, ‘At the request of the Public Prosecutors’ Office, the Constitutional Court shall order the abolition of political parties in the following cases: a) The party is deemed to be armed or military, militarized or paramilitary in nature, or an organization that is racist or displays a fascist ideology; b) The number of members falls below 5 000; c) For a period of six consecutive years the party does not put forward candidates for at least a third of all constituencies at any general election, or for a fifth of all municipal assemblies in the case of local authority elections; d) The party does not provide an updated list of its national officers for a period of more than six years; e) The party does not present its accounts for three consecutive years; f) It is repeatedly impossible to serve or notify the party in the person of any of its national officers, as per the list registered with the Court. At the request of the Public Prosecutors’ Office or of any party member, the decision to abolish shall determine what is to be done with any property that is to pass to the State’ (PL 18).


Romania adopted a Party Law in 1996, which was revised in 2003.

The PL of 1996 stipulates that ‘The application for the registration of a political party shall be lodged with the Tribunal of the Municipality of Bucharest, accompanied by: a) the statutes and program of the party; b) the constitution deed together with the list of supporting signatures of at least ten thousand founding members, domiciled in at least fifteen of the Country’s counties, but no less than three hundred in each county, accompanied by an authenticated declaration of the leader of the party's executive body with regard to the authenticity of the signatures; c) The lists of members of the party from the county organizations or of the Municipality of Bucharest required for the registration of the parties, which shall include: the name, the father's initial letter, the first name, date of birth, domicile, identity card, signature; d) A declaration with regard to the seat and patrimony of the party; e) proof of the opening of the bank account. The registration application shall be signed by the leader of the executive body of the political party and by at least three founding members, who shall be summoned in court. The registration application shall be posted up at the seat of the Tribunal of the Municipality of Bucharest for a period of fifteen days and shall be made public in a central paper of high circulation’ (PL 17).
In terms of procedure, ‘The tribunal of the Municipality of Bucharest shall deliver judgment on the registration application of the political party within not more than fifteen days after expiry of the term provided under Article 17, paragraph (3). Against the decision of the Tribunal of the Municipality of Bucharest, an appeal can be made at the Bucharest Court of Appeal within five days after the communication. The Bucharest Court of Appeal shall examine the appeal in a public sitting with not more than fifteen days after its registration. The decision of the Bucharest Court of Appeal shall be final’ (PL 19). Finally, the PL stipulates that ‘The political party acquires legal personality as from the date when the final decision of the court with regard to the admission of the application of registration was delivered’ (PL 20).

The PL of 2003 has amended the conditions and procedure to establish a party. As regard the conditions, the new PL stipulates that ‘For registering a political party, the following documents must be submitted to the Bucharest Tribunal: a) registration application, signed by the leader of the executive body of the political party and by at least 3 founding members, who shall be summoned in the court; b) the party’s statute, drafted according to the provisions of Art. 10; c) the party’s program; d) the articles of incorporation, together with the list of supporting signatures of the founding members; e) a statement regarding the headquarters and the property of the party; f) the document establishing the opening of a bank account. The registration application shall be posted at the Bucharest Tribunal for 15 days. Within 3 days as of the submittal of the registration application, the related announcement shall be published by the applicant in a widely circulated central newspaper’ (PL 18).

In terms of procedure, the PL stipulates that ‘The list of supporting signatures must specify the purpose, the drafting date and place, and for supporters it must contain: the first and last name, date of birth, address, type of ID, series and number, personal identification code, as well as signature. The persons supporting the registration of a political party may be only citizen with the right to vote. The list shall be accompanied by a statement on own liability of the person drafting it, which shall certify the authenticity of the signatures, under the penalty provided by article 292 of the Criminal Code. The list must contain at least 25 000 founding members, residing in at least 18 state counties and in Bucharest, but no less than 700 persons for each of these counties and Bucharest. Each list shall contain individuals from a single area. The lists shall be grouped on localities and counties, in order for the provisions of par. 3 to be verified’ (PL 19). Furthermore, it states that ‘The political party acquires legal personality as from the date when the final decision of the court with regard to the admission of the application of registration was delivered’ (PL 20). Finally, ‘The Bucharest Tribunal shall pass a judgment in regard to the registration application of the political party in no more than 15 days as of the expiry of the term provided under Art. 18, par. (2). The persons provided specified at Art. 18, par. (1), letter a), the Public Ministry or the persons provided under Art. 20, par. (2), may challenge the resolution of the Bucharest Tribunal at the Bucharest Court of Appeal, within 5 days as of its announcement. The Bucharest Court of Appeal shall examine the challenge in an open meeting, within no more than 15 days as of its registration. The resolution of the Bucharest Court of Appeal is final and irrevocable’ (PL 21).

1.3.20. Slovenia (1994-2007)

The Slovenian Party Law stipulates that ‘No Party may operate in the Republic of Slovenia unless it is registered pursuant to the provisions of this Act, or if its registered office is in located abroad’ (PL 3).
As regard the conditions to establish a political party, the PL mentions that ‘A Party may be established by at least 200 citizens of the Republic of Slovenia of legal age signing the Party Founding Declaration. No person whose legal capacity has been revoked may act as a Party founder’ (PL 4) and that ‘The founders express their will to establish a Party in the Founding Declaration. The founder provides the following information in the Founding Declaration: name and surname, date of birth, citizenship, permanent or temporary residence, Party name, short name and acronym, a statement of acceptance of the Party’s statutes and agenda. The founder’s signature on the Founding Declaration must be certified by a national authority or a public notary’ (PL 5).

In terms of procedure, the PL stipulates that ‘The Parties Registry is maintained by the ministry in charge of administration, which issues a regulation governing the registry and prescribing the form of the Founding Declaration. The application for entry into the registry must include: 200 Founding Declarations, Party by-laws and agenda, the minutes from the founding assembly, meeting or congress, including the names of elected Party bodies and the officer empowered under the by-laws to represent the Party as its responsible person. Any data entered in the registry is considered public data’ (PL 10). Furthermore, it mentions that ‘The registrar shall issue a decision on registration of the Party. The Party shall become a legal entity on the day of entry in the registry. The Party shall begin to operate pursuant to the provisions of this Act and other regulations as of the date of its registration. The registrar shall promulgate the decision on the registration of the Party in the Official Gazette of the Republic of Slovenia. The cost of promulgation of the decision shall be borne by the Party’ (PL 12). Finally, ‘The registrar shall carry out deregistration of the Party (...) if it finds that the Party did not participate at the National Assembly elections or local community elections on two consecutive occasions. The registrar shall inform the Party if deregistration proceedings are initiated and shall invite the Party to respond within a set period of time’ (PL 17).


Slovakia adopted a Party Law in 1993, which was amended in 2005.

The PL of 1993 stipulates that ‘Parties and movements are legal entities’ (PL 3). As regard the conditions to establish a political party, the PL stipulates that ‘Applications for the registration of parties and movements shall be submitted by the preparatory committee of the party or movement which is only eligible to carry out activities aimed at creating a party or movement. Only citizens who are at least 18 years of age can become members of the preparatory committee. The registration application shall be signed by all of the members of the preparatory committee and shall include the first name and surname, birth number and place of residence of the preparatory committee members. In addition, they shall indicate which member of the preparatory committee is authorized to act in its name. The preparatory committee shall attach the following documents to the registration application: a) a petition signed by at least one thousand citizens requesting the creation of the party or movement. Each citizen signing the petition is obliged to write his/her first name and surname, birth number and place of residence, b) two copies of the statutes (organizational rules) which shall include: 1. the name and abbreviation of the party or movement; 2. its seat; 3. its program objectives; 4. the bodies and the form of their appointment, including statutory, arbitration and auditing bodies; 5. the appointment of the bodies authorized to act in the name of the party or movement; 6. provisions related to the organizational units, if they will be established and act on their own behalf; 7. the manner in which the statutory bodies of the party or movement, eventually the bodies of its organizational units, shall act and sign; 8. the principles of economic management; 9. its
way of disposing with the asset balance, resulting from the liquidation of assets and liabilities if the party or movement is wound up, unless such balance reverts to the state). The name and abbreviated name of the party or movement shall significantly differ from the names and abbreviations of other parties and movements already acting on the territory of the Slovak Republic, in order to prevent interchangeability. The seat of a party or movement shall be on the territory of the Slovak Republic’ (PL 6).

In terms of procedure, the PL stipulates that ‘The application for registration shall be submitted to the Ministry of Interior of the Slovak Republic. If the registration application does not include the details specified in §6 or includes incomplete or inaccurate data, the Ministry shall notify the preparatory committee that if its registration application is not amended accordingly, the registration proceedings will not be initiated; the Ministry will notify the preparatory committee of this fact in writing without delay, but no later than 5 days from its receipt of such registration application. If the Ministry does not notify the preparatory committee within 10 days from the receipt of its registration application, the registration application shall be deemed as having no deficiencies. If the preparatory committee does not agree with the Ministry's notification, it may apply to the regional court within 15 days from its receipt of the notification, to obtain a statement that its registration application has no deficiencies. The regional court's decision may not be appealed. The registration proceedings shall commence on the day on which the Ministry receives the registration application with no deficiencies, or on the day on which the regional court decision becomes legally effective. The Ministry shall notify the authorized representative of the preparatory committee without delay about the day of commencement of the registration proceedings’ (PL 7) and that ‘Within 7 days after its registration, the Ministry shall report the creation of a party or movement, including its name, abbreviated name and seat, to the to the Statistical Office of the Slovak Republic which keeps a record of the parties and movements that perform activities on the territory of the Slovak Republic’ (PL 9).

The PL of 2005 has amended the PL of 1993. It stipulates that ‘A party is a legal person to be registered in the Register of Parties. The Register of Parties is kept by the Ministry of Interior of the Slovak Republic. Until a party is created, the preparatory committee shall act in matters related to its creation. The preparatory committee shall have at least three members’ (PL 4).

The PL of 2005 stipulates that ‘The Register of Parties is a public list where the data required by law in relation to the creation of a party, the changes of registered data and data related to the winding up and dissolution of a party shall be registered. A part of the Register of Parties is the Collection of Deeds, which contains applications for commencing proceedings pursuant to this Act, including documents required by law, Ministry decisions, rulings of competent courts and other documents and deeds which the parties are obliged to submit to the Ministry pursuant to this Act. The following data shall be entered in the Register of Parties: a) name of the party and its abbreviation; b) address of the party’s seat; c) party's registration date and number; d) first name, surname, birth number and permanent residence of the members of the preparatory committee, with an indication of the person who is empowered to act in its name; e) identification number of the party; f) first name, surname, birth number and permanent residence of the statutory body or member of a statutory body, with an indication of the way the statutory body shall act in the name of the party; g) date and sequence number of the registration of a change related to the party’s seat address, statutory body or statutes; h) date of registration of new statutes; i) dissolution of the party and the reasons for the dissolution; j) entry of the party into liquidation, including the first name, surname and permanent address of the
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liquidator and the termination date of the liquidation; during the liquidation the name of the party shall use the addendum "in liquidation"; k) declaration of bankruptcy, including the first name, surname and permanent address of the trustee and the termination date of the bankruptcy proceedings or the dismissal of a bankruptcy motion due to a lack of assets; during the bankruptcy proceedings the name of the party shall use the addendum "in bankruptcy"; and l) the date and reason for the deletion of a party from the Register of Parties. The data entered in the Register of Parties shall take effect in respect of everybody as of the day of its entry. The data entered in the Register of Parties are accessible to everybody and are published by the Ministry on its website. The birth numbers of natural persons registered in the Register of Parties are not part of the published or accessible data’ (PL 5).

In terms of procedure, the PL stipulates that ‘A party comes into existence on the day of its registration in the Register of Parties. The application for the registration of a party shall be submitted to the Ministry by the preparatory committee. The application shall be executed in writing and signed by all of the members of the preparatory committee; their signatures shall be certified. It shall contain the first names, surnames, birth numbers and permanent addresses of all of the members of the preparatory committee and the name of the authorized representative of the preparatory committee shall be indicated. The following documents shall be attached to the application: a) list of citizens who agree with the creation of the party: this list shall be signed by at least 10,000 citizens and each citizen shall indicate his/her first name, surname, permanent address and identity card number; b) two copies of the statutes of the party pursuant to article 5; c) receipt of the payment of the administrative fee; and d) statement of the party’s seat, indicating the town, street and house number, signed by the authorized representative; the seat shall be situated on the territory of the Slovak Republic’ (PL 6). Furthermore, ‘The registration proceedings of a party commence on the day on which the Ministry receives the application. The Ministry shall examine the application for any deficiencies or reasons for refusing the registration of the party. The Ministry shall register the party within 15 days from the commencement of proceedings, if the application is free of deficiencies or there are no reasons for refusing the registration of the party. The Ministry shall register the party within 15 days from the commencement of proceedings, if the application is free of deficiencies or there are no reasons for refusing the registration of the party. If there are no reasons for refusing the registration of the party pursuant to section 9, but other deficiencies were identified in the application and the enclosed documents, the Ministry shall send a written notification to the authorized representative within 15 days from the commencement of proceedings, specifying all of the deficiencies and calling on him/her to remedy them in the specified time; otherwise the proceedings will be terminated. The proceedings will be suspended until the deadline provided for the removal of deficiencies. No decision shall be issued on the suspension of proceedings; it will only be marked in the file. If the preparatory committee does not agree with the notification of the Ministry, it can apply to the regional court within 15 days from the receipt of the notification, requesting it to confirm that the application has no deficiencies; the period stops running according to section 4 from the date of such proposal. The preparatory committee is obliged to notify the Ministry of the proposal without delay. The deficiencies of the application shall be deemed remedied on the day on which the regional court decision in favor of the preparatory committee comes into force. The Ministry shall register the party within 5 days from the removal of the application’s deficiencies. No decision on the registration shall be issued. The Ministry shall send the authorized representative one copy of the articles bearing the registration date and number (hereinafter the "registered articles"). The Ministry shall terminate the proceedings if the preparatory committee has not remedied the deficiencies within the specified time or if the court does not decide in favour of the preparatory committee’s
proposal requesting to confirm that the application has no deficiencies. No decision on the termination of proceedings shall be issued; it will only be marked in the file. [...] The decision on the refusal to register the party shall be personally delivered to the authorized representative. The decision may not be appealed, but a court may review it. A complaint against this decision may be filed in the Supreme Court of the Slovak Republic. It shall be submitted and signed by all of the members of the preparatory committee. The new registration proceedings shall commence on the day on which the Supreme Court verdict reversing the decision on the registration refusal and returning the case for further proceedings comes into force. The Ministry shall be bound by the Supreme Court verdict entered into force’ (PL 7).

Finally, ‘The Ministry shall notify the Statistical Office of the Slovak Republic of the creation of a party, indicating its name, abbreviations, and address of its seat and date of registration, within seven days from the day of registration. The Office shall notify the Ministry of the party’s identification number within ten days from its receipt of the notification. The Ministry shall notify the Office of the following data within seven days from the registration of such new data in the Register of Parties: a) name of the party and its abbreviation; b) address of the party’s seat; c) first name, surname and permanent address of the person who is a statutory body or member of the statutory body; d) entry of the party into liquidation, including the first name, surname and permanent address of the liquidator; and e) declaration of bankruptcy, including the first name, surname and permanent address of the trustee, and the completion of bankruptcy proceedings or the dismissal of the bankruptcy motion due to a lack of assets. The Ministry shall inform the Office of the dissolution of a party and the date of its deletion from the Register of Parties within seven days after its deletion from the Register of Parties’ (PL 18).

1.3.22. Finland (1969; 1992)

Finland adopted a Party Law as early as 1969. This PL was revised in 1992. In 1969, the Finnish Party Law stipulates that ‘For the purposes of this act of law, a political party means an association entered in the party register maintained by the Ministry of Justice’ (PL 1).

As regard the conditions to establish a political party, the PL mentions that ‘An association may upon written application be entered in the party register as a political party if: 1) its main objective is to influence state matters; 2) it has signed support cards from at least 5 000 citizens entitled to vote in parliamentary elections; 3) the rules and regulations of the association guarantee that democratic principles are abided by in the decision-making and activities of the association; and 4) the association has drafted a party program, which takes up the goals and principles followed in the national activities, whose final objective is mentioned in the rules and regulations. Entry of an association in the party register as a political party is free of charge’ (PL 2).

As regard the procedure, the following regulation applies: ‘The application for entering an association in the party register shall include: 1) an extract from the Register of Associations; 2) a certified copy of the rules and regulations in force; 3) the party program; and 4) a list of the supporters of the party, compiled through the use of support cards conforming to the model approved by the Ministry of Justice. The support card shall include: 1) personal data of the supporter; 2) the supporter’s assurance that he or she is entitled to vote in parliamentary elections; 3) a date, which may not be more than one year in the past; and 4) the personal signature of the supporter’ (PL 3). Furthermore, ‘A political party that fails to gain a parliamentary seat in two consecutive parliamentary
elections is deleted from the party register. The same applies if a political party ceases to be a registered association. A party may also apply for deletion from the register’ (PL 6). Finally, ‘A decision by the Ministry of Justice to enter a political party in the party register or to delete it from the register must be complied with notwithstanding an appeal, until the appeal process has been completed’ (PL 712).

In 1992, the PL was midwifed and PL6 was repealed.

1.3.23. Sweden

In Sweden, there is no Party Law regulating the establishment of political parties. Regulations can be found in the Electoral Law.

The EL stipulates that ‘A party that wishes to register its denomination shall give written notice of this to the Central Election Authority. If notification is made no later than by the last day of February in the year when elections are to be held, the registration applies up to and including that election. If the matter relates to another kind of election than a general election to the Riksdag, a general election to municipal and county council assemblies or an election to the European Parliament, notification shall instead be given no later than one week after the decision on the election day having been notified for the registration to apply from and including the election. A notification shall state the kind of election to which it relates. If it relates to an election to a county council or municipal assembly, it shall state the county council or the municipality to which it relates. Together with a notification, the party shall provide declarations in accordance with Section 4 or a certificate that such declarations have been produced to a notary public. A party denomination shall be registered if the following conditions are satisfied: 1. The party denomination shall be or contain words. 2. If a party is not already represented in the decision-making assembly to which the notification relates, it shall have the documented support of at least a) for an election to the Riksdag: 1 500 people who are entitled to vote in the whole of Sweden; b) for an election to a county council or municipal assembly: 100 and 50 people, respectively, who are entitled to vote in the county council or the municipality to which the notification relates; c) for an election to the European Parliament: 1 500 people who are entitled to vote in the whole of Sweden. It should not be possible for the party denomination to be confused with a denomination that is already a) registered, or b) has been notified for registration, if the denominations could possibly be registered for the same election. It should not be possible for the party denomination to be confused with a denomination that previously applied for the same kind of election but which has been de-registered at most five years ago owing to a change of name. Those who in accordance with Section 3, item 2 support a notification for registration shall personally sign a declaration of support. The declaration shall state their names and personal identity numbers and where they are registered as resident. If a party denomination is registered for an election to the Riksdag, the registration shall also apply for an election to municipal and county council assemblies in the whole of Sweden and also for an election to the European Parliament. If registration relates to elections to the municipal assembly, it shall apply for the election to the county council and election to the municipal assembly in the municipalities that lie within the county council district. In other cases, registration shall only apply for the election to which the notification relates. If a party that has registered a party denomination so consents, another party can have the same denomination registered 1. for an election to the Riksdag even if the denomination has already been registered for an election to the county council

12 Re-numbered to PL 5 in 1992 version of the law.
or municipal assembly, or 2. for an election to a municipal assembly, even if the party denomination is already registered for an election to a municipal assembly within the county council district. This also applies if the first party’s application has not yet resulted in registration, when the other party submits its application.

A registered party denomination shall be de-registered if the party […] has not notified candidates for two consecutive general elections to the Riksdag, to a county council or municipal assembly or to the European Parliament. When a party denomination has been registered or de-registered, the Central Election Authority shall announce this by public notice in Post- och Inrikes Tidningar (Swedish Official Gazette)’ (EL Ch2. 1-8).

1.3.24. United Kingdom (1998)

In the United Kingdom, the Party Law stipulates the conditions for establishing a political party as follows: ‘An application for inclusion in the register of political parties must be accompanied by any fee prescribed by order made by the Secretary of State. An application must specify either (a) a name to be the party's registered name, or (b) a name in Welsh and a name in English to be the party's registered names. If a name to be registered is in a language other than English or Welsh the application must include an English translation. An application must specify (a) the address of the party's headquarters, or (b) if the party has no headquarters, an address to which communications to the party may be sent. An application must give the name and home address of a person to be registered as the party's leader. That person must be (a) the overall leader of the party, or (b) where there is no overall leader of the party, a person who is the leader of the party for some purpose specified in the application. An application must give the name and home address of a person to be registered as the party's nominating officer. A party's registered nominating officer must have responsibility for the arrangements for (a) the submission by representatives of the party of lists of candidates for the purpose of elections, and (b) the approval of descriptions and emblems used on nomination and ballot papers at elections’ (PL 1).

In terms of procedure, ‘A party may apply for inclusion in the register by sending to the registrar (a) an application which complies with the requirements of Article 1, and (b) a declaration that the party intends to have one or more candidates at a relevant (national, European, regional or local) election” (PL 2). Furthermore, ‘A party's registration shall lapse at the end of the period of three months beginning with any anniversary of its inclusion in the register unless the registered leader notifies the registrar that the party is to remain registered. Such a notice must - (a) be in writing, (b) be received by the registrar during the period beginning one month before the relevant anniversary and ending three months after it, and (c) be accompanied by any fee prescribed by order made by the Secretary of State’ (PL 7).
1.4. Comparative perspective and discussion

In order to have a comparative perspective of the existing regulations, Table 1 summarizes information regarding the requirements for the registration of political parties in the 27 Member States of the European Union.

Table 1. Conditions and procedures for party registration, Member States of the European Union (See Annex)

More specifically, for each country, the table provides an overview of:
- Source / regulatory texts: PL or EL,
- Documents required: i.e. party statutes, minutes of the constituent meeting, etc.,
- Signatures / Members: i.e. minimum threshold for recognition,
- Deposit / Administrative fee
- Registration Authority: i.e. Court or Ministry,
- Sustainability: i.e. failure to contest in elections, etc.

The purpose of party registration is broadly twofold: to identify who is eligible for participation in the electoral process, and to determine who is entitled to receive direct and indirect public benefits such as state funding and indirect subsidies. In order to deter frivolous parties from drawing on public resources, many countries impose minimum conditions on party registration. These typically include a certain minimum number of supporting signatures or party members, the payment of a deposit or administrative fee, and the requirement for a copy of the party statutes or charter.

Virtually all countries that specify conditions for party registration require that the newly founded parties submit a copy of their party statutes – and sometimes additional documents such as the minutes of the constituent meeting – to the relevant authorities. Given the amount of detail these may require (see footnote 5), such stipulations sometimes leave the parties with a much-reduced organizational discretion and freedom of manoeuvre.

The most common requirement for party registration consists of a certain minimum number of members and/or supporting signatures. The minimum number of members may be as low 200, as in Latvia, or as high as 25 000, as in Romania. Where changes over time are made, they unequivocally point towards more stringent conditions, even when corrected for possible increases in the voting population. Examples include Bulgaria (from only 50 signatures in 1990 to a combined total of 3 050 signatures and party members in 2009), Lithuania (from 400 members in 1990 to 1 000 in 2004) and, most spectacularly, Romania (from 10 000 party members in 1996 to 25 000 in 2003). It goes without saying that higher thresholds make it more difficult for new parties to emerge and thus have the potential to limit democratic pluralism, an objective that is sometimes actively pursued by the legislator, in particular in systems with relatively high degrees of political fragmentation.

Deposits or administrative fees appear to be an uncommon requirement, albeit with the caveat that these might be stipulated in other laws or by-laws. In Latvia, Slovakia, and the United Kingdom, parties pay an administrative fee (amount not specified by law) for
registration (13). In the Netherlands, parties pay a deposit (EUR 450), which is returned after submitting a valid candidate list for the upcoming elections to the Electoral Commission.

The procedures for registration are roughly similar across countries, with the most important distinction between countries lying in the type of authority that maintains the register. In most countries, the registration of political parties is entrusted to a government department, usually the Ministry of the Interior or the Ministry of Justice (e.g. Austria, Czech Republic, Denmark, Estonia, Finland, Lithuania, Slovakia, Slovenia, and Spain). In others, the registration of parties is the responsibility of the (higher or lower) courts (e.g. Bulgaria, Poland, Portugal, and Romania). In Ireland, the register of political parties is kept by the Registrar (the person who holds the office of Clerk of the Dáil, the Irish lower chamber). Only the Netherlands and the United Kingdom have an independent Electoral Commission responsible for the registration of political parties (14). The authorities responsible for the registration of parties are also responsible for the maintenance of the party register, recording changes in names, symbols, party statutes, or the dissolution of parties. If the number of members of a political party falls below (a fraction of) the minimum required for the creation of a party (e.g. Estonia and Portugal), or if a party fails to participate in a number of consecutive elections (e.g. Finland, Portugal, and Slovenia), procedures may commence to dissolve or suspend it, or to delete it from the register. Despite the variation regarding the type of authority managing and supervising political parties, the tendency is to assign these functions to either independent bodies (Electoral Authorities), executive bodies (Ministries) or Judiciary bodies, and not to the legislative branch (except in Ireland).

Finally, some countries require the decision on the registration of political parties to be published, typically in the official State Gazette (e.g. Bulgaria, Denmark, and Slovenia).

This comparative overview emphasized two corroborating trends across Europe. First, we witness a proliferation of regulation of political parties via Party Laws (PL) or Electoral Laws (EL) over time. Second, the requirements included in these laws tend to increase rather than diminish over time. These are important phenomena for at least two reasons, one normative and the other pragmatic.

In a pragmatic view, the regulation of parties at the national level has a direct effect on the emergence and the development of parties and party systems, thereby affecting the political and electoral market as well as party behavior. The objective of party regulation is often to control democratic pluralism and political fragmentation (especially in new democracies) as well as public funding of parties. However, the downside of (too much) regulation is that it potentially infringes upon the parties’ democratic freedom of association and undermines their organizational autonomy.

On the normative side, according to Casal-Bértoa et al (2012: p. 1), the increasing regulation of political parties ‘(...) bears important normative implication concerning the position that political parties have acquired in modern representative democracies’. As Katz and Mair have argued (1995), the weakening of ties between political parties and civil

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13 The non-refundable fee in the UK amounts to GBP 150.

14 In the United Kingdom, the Electoral Commission was established following the adoption of the Political Parties, Elections and Referendums Act 2000.
society went hand in hand with a strengthening of the relationship between parties and the state. This shift would illustrate a transition from a pluralist definition of democracy (where parties are seen as brokerage between the citizens and the state) to a definition of democracy where the state has to provide contested elections, requiring political parties. As Molenaar puts it (2010, p. 4), 'Society thus experiences an increasing stimulus to regulate political parties. This stimulus is the result of the growing integration of parties within the state and the weakening ties between parties and civil society'. In this new model of democracy, the state provides (and has to guarantee the provision of) political parties. The state transforms into a support structure for political parties, changing their nature from private associations to public utilities (van Biezen, 2004). The adoption of party regulation in most European countries can be understood as a sign of this shift in models of democracy. Because parties are needed by states to provide contested elections, the new norm is to support and regulate them to ensure that service to the citizens (van Biezen, 2008). This trend has been reinforced by the growing disconnection between parties and civil society, and the disengagement of the public from political parties (Mair, 2005).

These pragmatic and normative reflections have to be kept in mind when looking at party regulation.
2. PARTY STATUTES AND INTERNAL PARTY DEMOCRACY

KEY FINDINGS

- Political parties have faced three main evolutions in the last twenty years: a gradual decline of trust in political parties among citizens, a growing personalization of politics, and a shift in attitudes towards growing citizens’ demands for more participation;

- In reaction, parties have embarked in a dual process: the expansion of direct democratic procedures at the system level, and the transformation of their internal organization to renew intra-party democracy;

- The most notable transformation of intra-party functioning is the trend towards more inclusive selectorates in the selection of party leaders, in the form of the empowerment of rank-and-file members, or even voters via a system of primaries;

- Conversely, there is little evidence of a trend towards more inclusive candidate selection methods; there is a great diversity in methods used across parties, and little transparency in the process in most parties;

- However, the reforms at the system and the party levels did not stop party membership decline or the declining trust towards political parties;

- The effects of these reforms on the dynamics of party life are debated; one has to investigate their effects on four dimensions of democracy (participation, representation, competition, and responsiveness);

- The relationship between inclusiveness and these four dimensions is not linear and positive;

- Therefore, more inclusiveness does not always equal more internal democracy: it depends on which conception of democracy is applied (which of the four dimension is considered dominant), and on the conception of the articulation between democracy at the system level and intra-party democracy.

2.1. Introduction

Political scientists have acknowledged the central role of political parties in democratic systems for many decades. Seventy years ago Schattschneider (1942, p. 1) wrote that ‘political parties created modern democracy and modern democracy is unthinkable save in terms of parties’. Since then, it has hardly been argued that parties play a central role in the functioning of European democracies. Yet, political parties of the twenty-first century are not the same as parties of the late nineteenth or even mid-twentieth century. They have evolved with society and have adapted to its transformations, to the evolution of
Criteria, conditions, and procedures for establishing a political party in the Member States of the EU

democratic systems, and to new citizens’ demands. In the last twenty years, three main evolutions have been central for political parties.

The first is the gradual decline of trust in political parties among citizens. Many studies, based on mass surveys across Europe and North America, have shown high and often rising levels of anti-party sentiment (e.g. Dalton and Weldon 2005; Webb 2002). Party identification is also in decline, as confirmed by the growing levels of electoral volatility (Dalton 2000, 2004; Webb 2002). Finally, party membership is decreasing: over the last 30 years, in all member-states except Portugal, Spain and Greece, parties have lost members (van Biezen, Mair, and Poguntke 2011; Webb 2002). This decline ranges from almost 70pc points in the United Kingdom to around 25pc points in Germany.

The second major transformation has been the growing personalization of politics. The process of personalization means that ‘the political weight of the individual actor in the political process [has] increase[d] over time, while the centrality of the political group (i.e., the political party) [has] decline[d]’ (Rahat and Sheafer 2007, p. 65). This personalization of politics is multi-faceted (Karvonen 2010). A first sign of it is the empowerment of individual leaders within parties and government (Poguntke and Webb 2005, Blondel and Thiébault 2009). Second, voters are said to give more weight to candidates and leaders in the voting choice (Aarts, Blais and Schmitt 2011). And finally, the media tends to focus more on politicians as individuals (Mughan 2000).

The third trend, very much linked to the first two, relates to shifts in public attitudes and behavior towards growing citizens’ demands for more participation (Scarrow 1999). Political mobilization outside political parties is on the rise whereas conventional participation through institutional and organized channels such as voting and joining parties is declining (Norris 2002).

In reaction to these evolutions, political parties have embarked in a dual process. On the one hand, they have sponsored the expansion of direct democratic procedures at the system level. On the other hand, they have transformed their internal organization. In particular, they have tried to renew and revitalize intra-party democracy in order to ‘make partisan participation seem less conventional and more attractive’ (Scarrow 1999: 347). The most visible sign of this transformation is the gradual empowerment of rank-and-file members at the expenses of middle-level activists (Scarrow et al. 2000). The rank-and-file members have gradually become central in two crucial moments for the life of political parties: the selection of the party leader and the selection of candidates representing the party for elections.

This study examines these two aspects of intra-party democratization (candidate and leadership selection procedures). In order to describe and assess the transformations of intra-party organizations, this chapter relies on secondary sources, namely the most recent scientific publications on the topic. Directly collecting the data for each party in each Member State would require much more resources. Besides, the ambition of the comparison is to provide information on various trends and to allow us to draw conclusions and recommendations based on these observations. Therefore there is no need for an exhaustive overview.

This chapter is structured as follows. It presents the main evolutions in the methods for selecting party leaders, and then does the same for the method of candidate selection. It concludes by discussing the consequences of these changes.

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2.2. Party statutes and the selection of party leaders

Recent studies on leadership selection processes within political parties have identified the major changes that parties have introduced in order to promote more democratic leadership selection. The main transformation has been the trend towards more inclusive selectorates, i.e. the body in charge of the selection of the party leader. There has been a clear trend implying the transfer of the power to choose the party leader. Power has shifted away from the party elite (in most cases, the parliamentary party group) to either conferences attended by party delegates or to party members. In a handful number of cases, the power has even shifted outside the boundaries of the party organization, to the voters (Kittilson and Scarrow 2003, Kenig 2009b). So far, evidence of this trend has been analyzed in the literature in only a limited number of democracies - mostly Westminster democracies (UK, Australia, Canada, New Zealand, and Ireland). This report goes beyond these specific cases to propose a much larger comparative perspective. The goal of the comparison is to come up with recommendations on how to amend party statutes in order to create a more lively intra-party democracy.

The data used for the comparative overview has been collected within a project coordinated by the coordinator of this report, Jean-Benoit Pilet, in association with Professor William Cross (Carleton University Ottawa). The dataset includes information on leadership selection procedures of the five largest parties in twelve countries: Australia, Belgium, Canada, Germany, Hungary, Israel, Italy, Portugal, Romania, Spain, Norway, and the United Kingdom. The period that is covered in the project ranges from 1965 (or first democratic elections) until 2011. The dataset does not cover the 27 EU Member States. However, the goal of this section was not to perform a systematic comparison. Rather, the ambition of the comparative work is to provide us with information on various trends (13 countries will provide us with a good overview of these trends), and to allow us to draw conclusions and recommendations based on these observations and trends. In order to evaluate the degree of inclusiveness of the selectorate for the election of party leaders, we use the continuum proposed by Kenig and Rahat (2011) (Figure 2).

**Figure 2. Inclusiveness – Exclusiveness continuum of the selectorate for leadership selection**

![Figure 2](image)

**Source:** Kenig and Rahat 2011

For the sake of clarity, we will compare the situation in 1965 (Table 2) with the situation in 2011 (Table 3).

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15 The results of the study will be published by Routledge (London) in 2013.
Table 2. Selectorate used for the selection of party leaders, 1965

<table>
<thead>
<tr>
<th>Country/Selectorate</th>
<th>Voters</th>
<th>Party Members</th>
<th>Party Delegates</th>
<th>PPG</th>
<th>Party Elite</th>
<th>Single Leader</th>
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<tbody>
<tr>
<td>UK</td>
<td></td>
<td></td>
<td>Conservatives</td>
<td>Labour</td>
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<td>Liberals</td>
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<td>Australia</td>
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<td>Labour</td>
<td>National</td>
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<td>Liberals</td>
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<td>Belgium</td>
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<td>Christian-Democrats</td>
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<td>Labour</td>
<td>Liberals</td>
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<td>Canada</td>
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<td>Progressive-Conservative</td>
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<td>New Democrats</td>
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<td>Germany</td>
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<td>CDU</td>
<td>SPD</td>
<td>FDP</td>
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<td>Socialists</td>
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<td>Norway</td>
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<td>Labour Party</td>
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<td>Centre Party</td>
<td>English People’s Party</td>
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<td>Christian</td>
<td>People’s Party</td>
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<td>People’s Party</td>
<td>Liberal Party</td>
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<td>Socialist Left Party</td>
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Source: Cross and Pilet 2013 (To be published)

The comparison emphasizes a clear trend. The selection of party leaders by party members has gained ground. In 1965, among the democratic countries included in our sample, not a single party was using this method for selecting the party leader (Figure 3). Forty-five years later, party members are part of the process in seven countries. Overall, 23 out of 65 political parties use this method (35.4%). In some countries, the method has even
become the dominant pattern (Figure 4). It is the case in Belgium, where all parties except the extreme-right Vlaams Belang elect their leader via membership vote. This inclusive method is also used by all major parties of the United Kingdom and Canada. The trend seems to continue and new parties have recently adopted this method (see for example the Romanian PSD, the Portuguese PSD, and the Israeli Kadima).

Table 3. Selectorate used for the selection of party leaders, 2011 (year since which this selectorate is used)

<table>
<thead>
<tr>
<th>Country/Selectorate</th>
<th>Voters</th>
<th>Party Members</th>
<th>Party Delegates</th>
<th>PPG</th>
<th>Party Elite</th>
<th>Single Leader</th>
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<td>UK</td>
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<tr>
<td>Australia</td>
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<td>Democrats (1977)</td>
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<td></td>
<td>Vlaams Belang (2010)</td>
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<tr>
<td>Country</td>
<td>Parties</td>
<td>Conditions</td>
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<tr>
<td>Germany</td>
<td>CDU, SPD, FDP, Die Grünen, Die Linke</td>
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<tr>
<td>Italy</td>
<td>Partito Democratico (2007)</td>
<td>UDC AN, Popolo della Libertà, Lega Nord</td>
<td></td>
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<tr>
<td>Total parties</td>
<td>1 party, 23 parties, 30 parties, 4 parties, 3 parties, 2 parties</td>
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</tbody>
</table>

*Source:* Cross and Pilet 2013 (To be published)
However, the selection of party leaders by party members is not the most widespread method; it is the selection by party delegates at a party convention that ranks first (46.2%). This method of selection is dominant in countries like Romania, Germany – where it is even stipulated in the Party Law-, Hungary, Italy, Norway, or Spain. The third most frequent method is the selection by the parliamentary party group. It is still used by most Australian parties. Interestingly, no other party in our sample still selects its leader via a vote of its MPs, although it was a very frequent method in 1965, among countries like Canada and the United Kingdom.

Finally, it is worth mentioning the case of the Italian Democratic Party. Their leaders have been selected through primaries open to non-members since 2007. On the opposite side of the continuum, some parties grant a few oligarchs, or even one single-leader, the right to select the party leader. It is the case in Israel with Yisrael Beitenu and Shas, and in Belgium with Vlaams Belang.

2.3. Party statutes and the selection of candidates for elections

The second area in which parties have adopted internal reforms is the selection of candidates for legislative elections, although in this respect the process is ‘often far from being transparent’ (16). This aspect was discussed in the study ‘How to create a transnational European party system’. The study examined two dimensions of the candidate selection methods: the territorial dimension (at which level does it occur within the party), and the phasing of the process (right of proposal vs. final decision). Therefore, this study will not discuss these two dimensions.

The study also discussed a third dimension of candidate selection: the degree of inclusiveness of the selectorate. On this aspect, however, there have been major developments in the literature since the publication of the study. Therefore, this section relies on the most recent developments in the literature, and it heavily uses the most comprehensive study published by Reuven Hazan and Gideon Rahat (2010). The ambition is, through the use of secondary sources, to provide comparative but not exhaustive data in order to be able to draw conclusions and infer recommendations based on the observed trends and developments.

Hazan and Rahat have collected many examples of candidate selection methods in various parties across Europe, Israel, and North and Latin America. For each example, the authors illustrate how inclusive political parties are in terms of the candidate selection method. These examples are reported in Table 4. These examples emphasize the diversity of candidate selection methods. On one extreme of the continuum (the most inclusive), one finds for example the US, and the system of primaries in which voters can participate to the selection of candidates for elections. Still on the inclusive side of the continuum, but further away from the most inclusive method, one can find the method that lets all party members select candidates for elections. Some parties, in a couple of member states of the European Union, use this rather inclusive method: Belgium (Ecolo), The Netherlands (D66), the United Kingdom (Conservatives in some districts), Finland, and Ireland (Fine Gael). Moving further away from the inclusive side, one finds the selection of candidates by party delegates in a party convention. This method is used in Ireland (Fianna Fail and Labour), or in Germany (most parties at the district-level). However, the most widespread method is a

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mixed method, where candidates are selected by party members or party delegates – in the latter case, on basis of a proposal made by a party agency composed of representatives of the party elite. This is the method used by parties in most Western European countries. This mixed method varies depending on who has the final say - the party elite or party members or party delegates. Finally, on the opposite side of the continuum (most exclusive), some parties restrict the selection of candidates to a closed body of party elites or to a single leader. It is the case of the French Front national, under the direction of Jean-Marie Le Pen. It was also the case in Italy, where candidates of Forza Italia were selected by Berlusconi, in collaboration with the party’s regional coordinators.

Table 4. Selectorates used for candidate selection

<table>
<thead>
<tr>
<th>Voters</th>
<th>Members</th>
<th>Delegates</th>
<th>Members + Elite</th>
<th>Elite</th>
<th>Leader</th>
</tr>
</thead>
<tbody>
<tr>
<td>USA</td>
<td>Democratic Party</td>
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<tr>
<td></td>
<td>Republican Party</td>
<td>Israel</td>
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<tr>
<td></td>
<td>Labour Party</td>
<td>Likud</td>
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<td></td>
<td>Kadima</td>
<td></td>
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<tr>
<td>Mexico</td>
<td>PRD (2003)</td>
<td>Finland</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>All parties since 1975</td>
<td></td>
<td></td>
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<tr>
<td>Spain</td>
<td>Catalan Socialist Party (PSC)</td>
<td>Belgium</td>
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<tr>
<td></td>
<td>Belgium Ecolo</td>
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<tr>
<td></td>
<td>Socialist party (until 1970s)</td>
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<tr>
<td></td>
<td>Christian-democratic party (until 1970s)</td>
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<td></td>
<td>United Kingdom Conservative Party</td>
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<td></td>
<td>Ireland</td>
<td>Belgium</td>
<td></td>
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<tr>
<td></td>
<td>Fianna Fail (until 2007)</td>
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<tr>
<td>The Netherlands</td>
<td>CDA</td>
<td>VVD</td>
<td>PvdA</td>
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<td></td>
<td>France</td>
<td>Italy</td>
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<td></td>
<td>PCI (until 1986)</td>
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<td>France</td>
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<td></td>
<td>Front national</td>
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<td>Sweden</td>
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<td></td>
<td>Communist/Left Party</td>
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<td></td>
<td>Ireland</td>
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<td></td>
<td>Fianna Fail (until 2007)</td>
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<tr>
<td></td>
<td>The Netherlands</td>
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<tr>
<td></td>
<td>D66</td>
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<tr>
<td></td>
<td>Greece</td>
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<tr>
<td></td>
<td>PASOK (2006)</td>
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<tr>
<td></td>
<td>Iceland</td>
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<td></td>
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<tr>
<td></td>
<td>Fine Gael</td>
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</tbody>
</table>

Source: Rahat and Hazan 2010
Contrary to what has been observed for the selection of party leaders, Hazan and Rahat conclude that there is little evidence supporting a trend towards democratization of candidate selection methods. Some parties in some countries have democratized their candidate selection method, like most parties in Israel. However, there is no clear and linear trend in that direction across countries or parties. On the contrary, there are examples of countries where changes have gone in the opposite direction. Belgium is a good example, where parties have adopted more exclusive candidate selection methods over time. Until the late 1960s, early 1970s, the Socialists and the Christian-Democrats left the selection of candidates almost entirely in the hands of assemblies of party members (Obler 1970). From the 1970s onwards, the autonomy of these assemblies has been reduced to the approval of a list of candidates set up by a small ad hoc body of the party elites.

2.4. Consequences of internal reforms

The overview of the existing research on intra-party democracy emphasized that parties have tried to address the challenge of declining trust among citizens and rising participatory demands by engaging in internal reforms. In order to renew their image and to appear more transparent and open, they have tried to rejuvenate intra-party democracy. They have done so by expanding the selectorate in charge of selecting the party leader and letting more people decide on who the party leader should be. In some cases, this decision has been attributed to rank-and-file members. In a few cases, the selectorate has even been extended to party sympathizers within the electorate at large. Yet, this trend towards more democratization has mostly been limited to this specific area. Other central decisions have not been reformed, as shown with the case of candidate selection methods. The fact that the democratization of intra-party life has happened specifically for the selection of the party leader is not surprising. It clearly reflects the growing importance of party chairmen in modern politics and the trend towards personalization of politics.

Intra-party mechanisms have important impacts both on the system at large and on political parties themselves. Several studies have shown that the intra-party reforms towards more democratic leadership selection methods did not stop the membership decline, nor did they put an end to the declining trust towards parties (Scarrow 1999).

If these reforms did not have the expected effects at the system level, one might also question their effect on the dynamics of party life: can we say that more inclusive methods to select the party leader (or candidates) lead to more intra-party democracy? This question has been heavily debated in the literature. In order to try to answer this question, one has to keep in mind that mass participation is one dimension of democracy, together with representation, competition and responsiveness (Morlino 2011). As Rahat and Hazan (2006) point out, the relationship between the four dimensions is not a linear and positive relationship. Therefore, more participation does not always mean more representation, more competition, or more responsiveness.

First, authors have shown that the expansion of the selectorate does not ensure a high level of participation of that selectorate, not even for the first contest. Other researchers have stressed the undesirable effects of more inclusive selectorates, such as high turnover in membership figures (members join to support a specific candidate for the leadership race or candidacy, and then leave the party), or instrumentalization of rank-and-file by the contestants. Therefore, more inclusion does not automatically mean more participation.
Second, Rahat and Hazan show that more inclusive selectorates goes often to the
detriment of more social representation: parties tend to better select representative
candidates because they want to ensure the representation of certain groups. One tool to
compensate that negative relation is the use of quotas – for example, a minimal
should be taken into consideration, however, that unwise use of a representation correction
mechanism could hurt those that are supposed to be assisted. For example, adopting a low
static quota for women's representation may in the short run create a point of entry for
women into politics; but in the long run it would become the “private” estate of a few
women incumbents and not of women as such. It is also likely to encourage a separate
competition among women - rather than their integration into the general competition -
because each would (rationally) call on voters to select her and not other women in the
case that too few seats or positions are reserved for women. Such mechanisms would turn
from being tools for affirmative action into mechanisms that make under-representation a
self-fulfilling prophecy. Thus, wise use of representation correction mechanisms requires
limiting their use to newcomers (or, at least, single-term incumbents). It is also
recommended to use high quotas or progressively increasing quotas to answer the
problems of incumbency and the undesired creation of a separate realm of women's
competition’.

Third, Rahat and Hazan also stress that more participation is often to the detriment of
competition. More inclusive selectorates tend to select incumbent candidates because of the
personalization of politics. A tool to compensate that tendency and enhance competition
could be to grant a party agency the capacity to approve/disapprove incumbents’
candidacies.

Finally, the selection of leaders and candidates by a more inclusive selectorate might
jeopardize responsiveness of these candidates towards the party and diminish intra-party
cohesion.

Overall, one should avoid concluding that more inclusive selectorates equals more internal
democracy. It depends on the conception of democracy adopted, and on the importance
granted to each of the above-mentioned dimensions. If one adopts a participatory
conception of democracy, then the most important dimension would be the size of the
selectorate. In that case, an expansion of the selectorate would mean more intra-party
democracy. If one adopts a representative conception of democracy, then the most
important dimension would be social or substantive representative. In that case, a large
selectorate might put at risk the achievement of representation.

Similarly, the answer to the question will vary depending on how one conceives the
articulation between democracy at the state level and intra-party democracy: ‘If we see the
relationship between democracy within states and democracy within parties as
complementary then parties, instead of investing further in participation – which is the
imperative of the democratic state -- may enhance other democratic dimensions. The
creation of a relatively balanced list, the creation of higher levels of competition in order to
offset incumbency, or balancing responsiveness, may thus require placing limits on the
extent and impact of intra-party participatory democracy’ (Rahat and Hazan 2006, p. 10).

Based on this analysis, next chapter will discuss whether and how to amend current party
statutes at the European level, in order to create a more lively internal party democracy.
3. LEGAL BASE OF A FUTURE EUROPEAN PARTY STATUTE UNDER EU LAW

KEY FINDINGS

- National party laws traditionally fulfil five functions: 1) they define the criteria for recognition of a political party, 2) they regulate party activities, 3) they define norms for party organization, 4) they set sanctions against parties, and 5) they organize the public financing of parties;

- At the EU level, the management and supervision of these functions is in the hands of the European Parliament;

- The current regulation at the EU level covers two of these functions: the definition and recognition of European parties, and the financing of European parties;

- Therefore, there is room for possible innovation for a legal base of a future European party statute under EU law, on the one hand regarding the two functions already developed under EU law, and on the other hand on the traditional function of party law that are not yet developed under EU law.

3.1. Introduction

Based on the analysis of the criteria, conditions and procedures for establishing a political party in the Member States (Chapter 1), as well as on the overview of the scientific literature on intraparty democracy (Chapter 2), this chapter will now go one step further and develop suggestions towards the legal base of a future European party statute under EU law.

This chapter is divided into three sections. Section 3.2 is a reminder of the main functions of party laws in contemporary democracies. Section 3.3 presents the current legal basis for a European party statute under EU law. It will show that the current EU regulation of European political parties already fulfils some of the classical functions of party laws, but not all. On that basis, section 3.4 develops what could be the basis for a future European party statute that would fulfil all the traditional functions of party laws.

3.2. The functions of party laws in contemporary democracies

Chapter 2 has summarized common patterns regarding the functions and the content of party laws. It emphasized that party laws traditionally fulfil five functions:

1) they define what is a political party, what can be recognized as such in the country, and the procedures to be followed by parties to be legally recognized;

2) they regulate the types of activities in which parties may engage;

3) they define norms that have to be followed by parties in the way they are organized;

4) they set the sanctions that could be taken against parties that are not following the legal rules and norms of the country;
5) they organize the public financing of political party and the control of the finances in electoral campaign, but also between elections.

The first function of party laws is to set criteria and norms for a politically party to be legally recognized. On the one hand, party laws provide definitions of what is a political party - that is, in almost all countries, a voluntary association of citizens that unite to participate to the political life of the country, mostly through the participation in elections. On the other hand, party laws also tend to define the minimal criteria that have to be fulfilled to be a party. These criteria can be a minimum number of affiliated members, the regular participation in elections, but also that the party abides to the democratic principles on which the country and its constitution are based. Party laws also often include the administrative procedures that parties have to follow to be recognized by State authorities like the official registration of the party name and of the address of the party headquarters, but also in some case the official deposit of the party charter or of the list of the members of the party direction that are legally responsible for the party.

The second function of party laws is to delineate and regulate the types of activities that parties may engage in. In that respect, party laws often ban any participation to violent or non-democratic actions. They can also oblige political parties to participate in elections on a regular basis in some or all parts of the country. And in a few countries, parties can also be obliged by party laws to organize party conventions on a regular basis.

Third, in a few countries, party laws impose rules and procedures for the intra-party organization of the party. It can involve how the party should select its leader(s), its candidates, or how the party platform should be approved. Party laws also sometimes define what the rights of party members are.

Fourth, party laws contain in most contemporary democracies provisions on how the control and oversight of political parties is organized. They define what the official body responsible for the first registration of political parties in the country is. They also specify how this official body has to control on a regular basis that the criteria for being a political party are still met, and that the activities of the parties are not going against the law.

In addition to these four functions of party laws, a recent trend is to legislate on party financing. More and more countries have adopted within their party law, or more frequently via a specific pieces of legislation, detailed rules and procedures organizing the public financing of political parties, regulating private donations to parties, and setting the limits of what and how parties can spend money in electoral campaigns. In many cases, the law stipulates that political parties that do not obey to these regulations will lose access to public money, but they can also in some countries lose the right to participate in elections, or even to be recognized as a political party. Interestingly, in a growing number of countries, party laws also contain legal dispositions on how to organize the dissolution of a political party.
3.3. The current legal basis for European Parties under EU law

This section presents what is the current legal regulation of European parties under EU law. We will proceed by linking it to the five functions of party laws, as just described above. The analysis takes into consideration two legal sources: (1) the provisions of the European Treaties, as amended by Lisbon, about European political parties, and (2) the existing regulation of European political parties.

The first source of EU regulation of European political parties is to be found in the European Treaties. Since the Treaty of Maastricht signed in 1992, the EC Treaty has ‘expressly acknowledged the role of European political parties’. In that respect, article 191 of the Treaty stated that political parties at European level are important as a ‘factor for integration within the Union’ and that they ‘contribute to forming a European awareness and to expressing the political will of the citizens of the Union’. According to its spirit, general scheme and wording, this provision was intended to produce legal effects. However, since article 191 contained ‘no operational clause’ and was therefore somewhat declaratory, a specific legal basis had to be added so that a statute for European political parties and their funding regime could be developed. The Commission accordingly considered that the most appropriate legal basis would indubitably be article 308, in conjunction with article 191, and brought forward in 2001 a proposal on the statutes and financing of European political parties (see below).

The Nice Treaty introduced several amendments regarding European political parties. In particular, it has specified how a legal base for European political parties should be proposed (paragraph 2 of article 191). The Nice Treaty stipulated that the proposal should ‘be adopted by the co-decision procedure rather than the consultation procedure’. Consequently, the Parliament and the Council adopted the Regulation (EC) Nº2004/2003 on the rules governing political parties at European level and their funding based on that article 191 (2) (see below).

The adoption of the Lisbon Treaty brought various changes to the legal framework of political parties within the European Union. First, the content of article 191 was split into two separate articles: a declaratory article 10, §4 of the Treaty on EU, and an operational article 224 of the Treaty on the functioning of the EU. On the one hand, article 10 TEU ‘does not stipulate any regulatory elements but puts down the normative element that parties are important both for European integration and as a means for European citizens to express their will’. On the other hand, article 224 TFEU appears to be the appropriate legal basis for such a European party statute. Indeed, the successive revisions of its text had specifically intended to allow the implementation of the current article 10, §4 TEU. Moreover, article 224 TFEU confers expressly to the Union the competence to lay down the regulations governing political parties at European level and their funding, acting thereby in accordance with the ordinary legislative procedure. Thus, both legal and financial components of a status for parties at the EU level can be adopted by virtue of article 224 TFEU. This provision has been inserted in the Treaties for that specific purpose, as indicated by Regulations Nº2004/2003 and Nº1524/2007 based on the former article 191, §2 TEC (see below).

Furthermore, the Lisbon Treaty gave force to the Charter of Fundamental Rights of the European Union. Article 12 of the Charter guarantees the freedom of assembly and of association; its second paragraph mentions that ‘the political parties at Union level contribute to expressing the political will of the citizens of the Union’. The normative
argument of article 10, §4 TEU appears to be mirrored in this provision. Besides, by virtue of its article 51, the Charter does not establish any new power or task for the Union, nor does it modify powers and tasks as defined in the Treaties. Since it does not extend the competences of the institutions and lacks operability, article 12 of the Charter therefore cannot be used as a legal basis for a European party statute.

A legal basis for a statute of European political parties could also be found incidentally and perhaps in a less convincing way, in two other provisions of the Treaties. First, article 223, §1 TFEU stipulates that the provisions necessary for the election of the Parliament’s members by direct universal suffrage, in accordance with a uniform procedure in all Member States, shall be adopted pursuant to the special legislative procedure. In theory, the regulations governing the European political parties statute could be established by means of a new project of uniform electoral procedure since the role played by the political parties in the direct elections is essential, although the financial component could hardly be based on article 223, §1 TFEU. Therefore, this choice of legal basis might not be the most appropriate, especially to the extent that the special procedure hampers each institution to make its contribution to a balanced result. The second potential provision of the Treaties is the following: according to article 232 TFEU, the European Parliament shall adopt its Rules of Procedure. Because this provision does not precisely determine the content of such regulations, the Parliament could find in the conjunction of article 232 TFEU and article 10, §4 TEU a legal basis for the establishment of the European parties status. However, in that context, the regulations governing political parties would solely be admissible to the extent that they are directly related and necessary to the functioning of the Parliament. For instance, a legal personality for political parties or the rules regarding their funding could not be implemented by means of the Parliament’s Rules of Procedure. Consequently, one-off measures could only be adopted, making this combination of provisions an unsuitable legal basis for a European party statute.

Based on the above-mentioned provisions of the European Treaties on the role of European political parties, the Parliament, the Commission and the Council have taken initiatives in the last ten years to develop a regulatory basis for European parties.


If we compare this regulation to the five traditional functions of party laws that are 1) the definition of political parties and the definition of the criteria and procedures to be officially registered as a political party, 2) the regulation of the activities of parties, 3) the organization of intraparty democracy, 4) the organization of the control and oversight of parties, and 5) the financing of political parties, it appears that the current regulation already extensively covers two of these functions:

1) the definition and recognition of European parties, and
2) the financing of European parties.

On the first aspect, the definition and recognition of European parties, the EU regulation stipulates that European parties should meet the following conditions to be formally recognized by EU institutions and to be eligible for funding on EU budget. Parties must:

1) have legal personality in the Member State in which their seat is located;
2) be represented in at least a quarter of the Member States by MEPs, national or regional MPs, or they must have in at least one quarter of the Member States, obtained at least three per cent of the votes cast in each of those Member States at the most recent European Parliament elections;
3) observe in their program and activities the democratic principles on which the EU is founded;
4) have participated to European Elections, or expressed the intention to do so.

Beyond these requirements, the EU Regulation of European parties also offers detailed rules and procedures for a European political party to receive funding from general EU budget. The related articles can be divided in three groups.

The first group of articles specifies what documents should be handed out by European political parties to apply for EU funding. The second group details legal obligations associated with the granting of EU funding, such as the publication of its revenue and expenditure and of the private donations received, the interdiction of financial donations when there is a risk of conflict of interests, and also the interdiction of money transfer to national parties. Finally, the third group of articles organizes the control and supervision of European political parties. The verification is first attributed to the European Parliament. In case of problems with a European party, a committee of independent eminent persons nominated by the EP, the Commission, and the Council assists the European Parliament.

This Regulation was slightly amended in 2007 following a proposition by the Commission. The amendments adopted can be divided in three groups. First, minor amendments to the rules organizing the financing of European parties were provided. Second, the use of EU financing of European parties for the campaigns preceding European elections was extended. Finally, and that is the most significant change, elements for the establishment and regulation of European Foundations associated to European parties were included.

Yet, the Parliament in particular aims at going even further. In the Resolution of 6 April 2011 on the regulations governing political parties at European level, the European Parliament states that the existing rules should be improved as regards a number of points, all of them with the overriding purpose of enabling the European parties to act as representative agents of the European public interest, and, thus, of enhancing democracy in the Union. In its Resolution, the European Parliament considered that a common and uniform political, legal and fiscal status should be established in order to achieve organizational and functional convergence and improvements to the funding process. In connection to this, the Committee of Constitutional Affairs has underlined in a Feasibility Study that a number of basic rules shall be laid down regarding their status and functions, 'definition and legal personality, registration rules, party bans, internal structures, (...) decision-making rules, membership provisions, and, finally, provisions on funding aspects and taxation'. This report is directly contributing to this process.

Very recently, in September 2012, a new contribution to the discussion has been provided by the European Commission with the adoption of Commission Working Document prefiguring the proposal for an amendment to the Financial Regulation introducing a new title on the financing of European political parties (17). Yet, the purpose of this working document is different from the one discussed in this report. The Commission discusses specifically the financial regulation of European political parties, which is not at the heart of this report: it has more to do with the establishment of a new party finance law than of a party law.

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3.4. Elements for a future European party statute

It is important to keep in mind that the current European Regulation imposes conditions, rules and procedures to European political party only if they intend to apply for public funding from the general budget of the European Union. If they are not interested in that funding, they do not face these regulations. In several Member States, meeting the criteria of party laws does have direct consequences on access to public financing of parties, but it has also other consequences. Parties that do not meet the conditions defined in the national party law can be forbidden to run for elections, or to have an access to public media during the electoral campaign. Therefore, a first recommendation would be to discuss whether the future conditions should apply only to parties willing to obtain public funding from the EU, or to all parties willing to take part in European elections. In the latter case, strong coordination would be required among the Member States.

The recommendations are derived from the comparative analysis of party laws in Member States detailed in Chapter 1, and from the section on intra-party democracy detailed in Chapter 2.

It clearly appears from the previous section that the current EU Regulation of European political parties does fulfil some of the traditional functions of party laws, but not all. It offers details about the conditions and criteria to be recognized as a European party, as well as about the rules and procedures organizing the EU funding of Europarties. Yet, if one compares the existing regulation to the national party laws in the Member States, it appears that the regulation at the national level goes further, regarding both the functions already covered and of course those not currently fulfilled by the Regulation (EC) No 2004/2003 of the European Parliament and of the Council on the regulations governing political parties at European level and the rules regarding their funding, such as the regulation of the activities of European parties, or the organization of intra-party democracy.

The definition of what is a political party and what are the conditions and criteria for being formally recognized as such is already contained in the current regulation. It is in line with the most frequent criteria of national party laws in the Member States. For example, the third condition on the respect of the founding principles of the European Union can also be observed in most party laws of the EU Member States. These laws specify that political parties should act in line with the principle of the national constitution and in accordance with the basic principles of democracy. These elements are particularly present in party laws of countries that have been under the rule of an authoritarian regime, such as in Central and Eastern Europe, but also in Spain, Greece, or Germany. The conditions of participation to elections, as well as the condition of representation of the European party by elected representatives in the member states is also present in several Member States. The Estonian and Finnish party laws for example require that parties have elected representatives, and the legislation imposes in several Member States the regular participation to elections (Germany and Portugal), or at least the intention to contest (Ireland and the United Kingdom).

National party laws provide other types of conditions and criteria for being recognized as a political party. First, national party laws often include a provision on the minimum number of affiliated party members. In twelve Member States (Bulgaria, Czech Republic, Denmark, Estonia, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia, Slovakia and Finland), the Party Law specifies that the party should have a minimum number of members, or to be
supported by a certain number of citizens, to be recognized as a political party. The minimum requirement varies a lot from one country to the other, from 1,000 members in Estonia or Poland to 25,000 in Romania. A recommendation could be to open the discussion on a minimum number of affiliated members to European parties. These affiliated members could be direct members of European parties and/or indirect members through national parties.

Still on the conditions to recognize political parties, a second element to be discussed is the territorial presence of the European political party across the European Union. The current Regulation imposes that a European party shall be represented by elected representatives in one quarter of the Member States, or that it obtains in at least one quarter of the Member States, at least three per cent of the votes cast in each of those Member States at the most recent European Parliament elections. A first element of reflection is whether the proportion of Member States in which the European party shall be represented should be raised. If the motivation of a new statute for European parties is that, as specified in Article 191 of the Treaty, ‘political parties at European level are important as a factor for integration within the Union and that they contribute to forming a European awareness’, requiring their presence in a large proportion of the Member States has to be debated. An alternative would be to extend this requirement to affiliated members to European parties. In Romania, for example, the Party Law stipulates that the 25,000 founding members should be residing in at least 18 state counties and in Bucharest. In the same logic, the current criteria specifying that European party shall ‘have participated in elections to the European Parliament, or have expressed the intention to do so’ could be extended. It could impose the participation to elections to the European Parliament in at least one quarter of Member States, to be in line with the criteria on elected representatives.

The national party laws almost all provide details on the procedure to follow to be recognized as a political party (it is the case for 15 out of the 17 Member States with a PL). At the European level, the current Regulation (EC) No 2004/2003 stipulates that European parties that apply for public funding from the general budget of the EU shall file an application containing:

- documents proving that the applicant satisfies the conditions mentioned above;
- a political program setting out the objectives of the political party at European level;
- a statute defining in particular the bodies responsible for political and financial management as well as the bodies or natural persons holding, in each of the Member States concerned, the power of legal representation, in particular for the purposes of the acquisition or disposal of movable and immovable property and of being a party to legal proceedings.

These requirements are in line with what is found in national party laws across the European Union, especially regarding party statutes, also required in 14 Member States. Interestingly, similar requirements regarding the party platform are much less common (only Finland and Romania have such provisions). In the Member States, a declaration of the political principles is either not required, or only for the first public registration of the political party. On that aspect, the regulation at the European level already goes further than the regulation at the level of the Member States.

Conversely, most party laws at the national level require the official deposit of the full name of the party, of its acronym, of its logo and of the official address of the party. The current EU regulation does not explicitly require this information, although European parties provide it in their application for EU funding. These elements could be added in a new statute for European parties.
Finally, two Member States (the Netherlands and the United Kingdom) require a financial deposit for the registration of parties. These provisions are less common among Member States but could also be discussed for a statute for European political parties.

The second function of party laws is to regulate the activities of political parties. More precisely, they (a) specify the kind of activities in which parties have to engage, and (b) they ban some activities that are said to be illegitimate and illegal for political parties in democratic systems. On the first aspect, the analysis of party laws of EU Member States shows that all of them specify that parties have to participate in elections or at least to declare their intention to contest. This element is already present in the current EU Regulation of European parties.

In some of the Member States, the party law also forces parties to engage in other kind of activities. It is not currently the case at the EU level. The EU Regulation defines which activities are eligible for EU funding. These activities correspond to events, meetings, studies, research, publication or information campaigns that are in line with the political objectives of the party as defined in its program. However, there is no obligation to organize these activities, or any other activity. For instance, there is no obligation to organize regular party meetings. The Romanian party law is interesting in this respect. The law plans the dissolution of a political party if it becomes inactive. Inactivity means not running for elections, but also not holding a party convention on a regular basis. If no party convention has been held in the last 5 years, the Court may declare a party inactive and organize its dissolution (articles 47 and 48). This could be adopted at the European level to guarantee that European parties are not empty umbrellas of national parties. This provision would be in line with the recommendation made above to encourage direct membership to European political parties.

However, party laws are more detailed when it comes to banning certain types of activities than when it comes to set mandatory activities. For example, many party laws in EU Member States forbid activities that are perceived as potential threats for democracy or the political system. Such provisions can be found in the party laws of Portugal, Spain, Finland, and Lithuania. It is also mentioned in the Constitution of other Member States (e.g. Germany). Another example is party laws specifying that parties cannot participate to violent action. It is the case of the Spanish party law, or the Portuguese party law. In other countries, like Bulgaria, the party law forbids the existence of parties based on ethnic, racial, nationalistic or religious grounds.

The current EU Regulation mentions that a criteria for being recognized as a European political party is that the party ‘must observe, in particular in its program and in its activities, the principles on which the European Union is founded, namely the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law’. Recommendations based on the analysis of the existing national party laws would suggest to add a more explicit prohibition of non-democratic and violent actions, or to specify that such actions would deny parties all access to EU funding or the right to run for European elections. The prohibition of parties based on religious, ethnic or nationalist grounds, on the contrary, would clearly be in contradiction with the diversity of situations within the 27 Member States.

The third function of party laws is to organize intra-party democracy. It is clearly the less frequent function of party laws, and also the most controversial. Only few countries impose guidelines to parties in how to build their organization and how to stimulate intra-party
democracy. Some Member States impose that political parties hold a party convention on a regular basis (e.g. Romania), or are founded by a conference of founding members that has adopted the founding charter of the party (e.g. Bulgaria, Estonia, Latvia, Lithuania). Only the German party law goes further by imposing stricter guidelines for the internal organization of parties. The German Party Law stipulates for example that assemblies of members and of delegates (party conferences, party conventions) are the supreme bodies of the party (article 9). Among other things, these assemblies of members are sovereign for the election of party leaders and of the bulk of the members of the party executives. The Law also defines and delineates the rights of party members, for example regarding the expulsion of a party member.

The previous chapter discussed the transformations of intra-party democracy in contemporary democracies. It emphasized a trend towards more inclusive selectorate in order to the select party leaders and, to a lesser extent, candidates for elections. The current EU regulation does not regulate intra-party mechanisms. Following that trend would mean at the EU level to impose mechanisms for the election of European party leaders that would involve party members, or even citizens. It could contribute to the development of a European awareness that is currently laid as one of the motivations of the European Regulation of political parties (Regulation (EC) No 2004/2003). In case the proposals for the creation of an EU-wide constituency for the election of some MEPs comes into force (18), specific, inclusive mechanisms of candidate selection could be planned.

The last two functions of party laws are to organize the control and supervision of political parties, and to detail the rules and procedures for parties to access public funding and to use the public money they receive. For this last element, the current Regulation (EC) No 2004/2003 already contains the elements of regulation of public funding included in the party laws of the Member States. A more detailed regulation would mean the adoption of a separate law of the financing of European parties. It is the spirit of the recent Commission Working Document prefiguring the proposal for an amendment to the Financial Regulation introducing a new title on the financing of European political parties, adopted in September 2012. However, the goal of this study was not to discuss what could such a party finance law of European parties look like. It goes well beyond the scope of this study, whose purpose was to discuss a regulation of European political parties inspired by national party laws, and not by party finance laws.

Table 5 summarizes the recommendations inferred from the analysis of national party laws in the Member States.

The main potential developments are the addition of new criteria to be formally recognized as a European political party, such as a requirement to have a minimum number of direct or indirect party members, or the requirement to extend the minimal territorial basis of European parties beyond a quarter of Member States (as currently set in the EU Regulation). Other administrative requirements could be added, such as the legal deposit of the party name, acronym and logo, or a financial deposit. This last element is to be linked with the necessity to specify the procedures organizing the dissolution of European parties.

Secondly, the current Regulation (EC) No 2004/2003 is less detailed than the national party laws as regard the regulation of the activities of political parties. More specifically, the idea of requiring European parties to organize a minimum number of intra-party activities could be debated, for example the obligation to organize a party convention each year, as found in the Romanian party law. Additionally, the EU regulation could find inspiration in the Spanish, Portuguese, or Finnish party laws and include sanctions for parties that engage in or support violent actions or activities, in contradiction with the basic democratic principles on which the EU is founded.

Thirdly, the current EU Regulation does not contain any specification of how European parties should organize internally. Elements promoting intraparty democracy are another avenue to be explored. The new regulation could encourage or impose open and inclusive mechanisms that would associate members or voters to the selection of the leaders or candidates of Europarties for the renewal of the European Parliament are possibilities.

Finally, a more general reflection should be engaged on the practical consequences of a new statute for European political parties. What would be the benefits of being formally recognized as a European party? And what would be the cost of not being recognized as such? The current EU Regulation partly answers these questions: recognition gives access to EU funding. However, some national party laws add another type of cost: recognition allows parties to run for elections. Such provisions are very unlikely in the case of European political parties, since it would require strong coordination among the Member States and their acceptance of losing their right to organize and regulate the elections of the European Parliament on their own territory. Yet, a proposal recommending the election of a proportion of MEPs in an EU-wide constituency could modify the situation (19). Such a proposal could be accompanied by a provision in the new statute of European political parties that would link the formal recognition as a European political party and the authorization to run in this EU-wide constituency.

Table 5. Summary of the recommendations for a legal base of a future European party statute under EU law

<table>
<thead>
<tr>
<th>Function of party law</th>
<th>Existing EU Regulation</th>
<th>Possible innovations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The party must:</td>
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<td></td>
<td>- have legal personality in the Member State in which its seat is located;</td>
<td>- To introduce a requirement of a minimum of members. It could be indirect membership through national parties or direct affiliation to European parties.</td>
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<td></td>
<td>- be represented in at least a quarter of the Member States by MEPs, national or regional MPs, or it must have in at least one quarter of the Member States, obtained at least three percent of the votes cast in each of those Member States at the most recent European Parliament elections;</td>
<td>- To extend the proportion of Member States in which the party is (for example to one half of the Member States).</td>
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<td></td>
<td>- observe in its program and activities the democratic principles on which the EU is funded;</td>
<td>- The same discussion could be open for the proportion of countries in which the European party is contesting for the election to the European Parliament, and to the proportion of Member States in which the European party should have members (direct or indirect).</td>
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<td>- have participated in European Elections, or expressed the intention to do so.</td>
<td>- European parties could be formally required to deposit the name, acronym and logo of the European party in order for these to be protected and to prohibit any other party to use them.</td>
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<td></td>
<td>- Submit the following documents:</td>
<td>- A financial deposit could be required.</td>
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<td></td>
<td>- a political program setting out the objectives of the political party at European level;</td>
<td>- To add more detailed procedures organizing the dissolution of European parties.</td>
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<td></td>
<td>- party statutes defining in particular the bodies responsible for political and financial management as well as the bodies or natural persons holding, in each of the Member States concerned, the power of legal representation</td>
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<td></td>
<td>- Regulation of the activities of parties</td>
<td>- To add an obligation to hold a party convention on a regular basis (annually?).</td>
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<td></td>
<td>- Obligation of contesting elections of the European Parliament</td>
<td>- To add more explicit interdiction of violent actions or of actions in contradiction with the democratic principles on which the EU is</td>
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<td></td>
<td>- Obligation to hold only non-profit activities</td>
<td></td>
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<td></td>
<td>- Interdiction of activities going against the basic democratic principle on which the EU is</td>
<td></td>
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<tr>
<td>Criteria, conditions, and procedures for establishing a political party in the Member States of the EU</td>
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<tr>
<td><strong>Organization of intraparty democracy</strong></td>
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<tr>
<td>No element of intraparty democracy in the current EU Regulation of European parties</td>
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<tr>
<td>- To add an obligation to organize the selection of the leader of the European party through open and inclusive procedures (e.g. direct election by party delegates, members, or voters).</td>
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<tr>
<td>- To add an obligation to adopt the party platform for European elections at a party convention.</td>
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<tr>
<td>- If an EU-wide constituency is created, to add the obligation to organize the selection of candidates for this constituency through open and inclusive procedures (such as a direct vote of party members, or perhaps of voters).</td>
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<tr>
<td><strong>Funding of political parties</strong></td>
<td></td>
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<tr>
<td>Very detailed regulation at present. No innovation unless the decision is to draft a separate regulation on party finance</td>
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<tr>
<td><strong>Control and supervision</strong></td>
<td></td>
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<tr>
<td>See next chapter</td>
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<td>founded. The prohibition could also be extended to declarations inciting such actions.</td>
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4. THE ROLE OF AN INDEPENDENT ‘EUROPEAN ELECTORAL AUTHORITY’ IN THE MANAGEMENT AND SUPERVISION OF EUROPEAN POLITICAL PARTIES

KEY FINDINGS

- At the national level, Party Laws not only specify the criteria and procedures for establishing political parties, but they also assign a specific body or institution the management and supervision of political parties;

- Traditionally, at the national level, this supervision is in the hands of Ministries, Courts, or (increasingly) independent Electoral Authorities;

- Independent Electoral Authorities traditionally fulfil five functions: 1) organizing elections, 2) conducting studies and organizing debates about potential reforms, 3) management and supervision of political parties, 4) regulation of party finances, and 5) organizing information campaigns and civic education programs;

- At the EU level, the current regulation specifies that the management and supervision of political parties is in the hands of the European Parliament;

- At the EU level, one might extend the considerations beyond the conditions and procedures for establishing a political party (Chapter 4) and also reflect on the body or institution that would be in charge of overlooking the process;

- Based on the observation of the discrepancy between the national and the EU level, and on the trend towards a growing role of Electoral Authorities in modern democracies, suggestions can be developed regarding the possible future development of an independent body in charge of the management and supervision of political parties and the organization of free and fair elections.

4.1. Introduction

The overview of the criteria, conditions and procedures for establishing a political party in the Member States of the European Union developed in Chapter 1 emphasized the role of Ministries, Courts, or Electoral Authorities in the management and supervision of national political parties. In the eventuality of the development of a legal base of a future European party statute under EU law, one might extend the considerations beyond the criteria and procedures for establishing political parties at the EU level. One might also reflect on the body or institution that would be in charge of overlooking the procedures and the respect of the criteria, conditions, and procedures.

Therefore, this Chapter 4 follows a similar structure as Chapter 3. It starts with a reminder of the main functions of Electoral Authorities (or similar bodies) in contemporary democracies, and investigates their role in their national context. It then presents the current provisions under EU law. It emphasizes the fact that the functions traditionally performed by Electoral Authorities at the level of the Member States are in the hands of the
Criteria, conditions, and procedures for establishing a political party in the Member States of the EU

Parliament at the EU level. On that basis, this study puts forward suggestions regarding the possible future development of a body in charge of the management and the supervision of political parties at the European level. The study reflects on what could be the role of such a potential 'European Electoral Authority'.

4.2. The functions of Electoral Authorities in modern democracies

Recent studies have focused on the role and functions of Independent Electoral Authorities. In any democratic system organizing free and fair elections, the responsibility for their practical administration has to be attributed to an authority. Traditionally, states have opted for specific branches of the administration - in most cases by ministries of Justice or of Home Affairs. Within the European Union, it is for instance the case in Belgium, Austria, Czech Republic, Denmark, Estonia, Finland, Lithuania, Slovakia, Slovenia or Spain. In other countries, it is the judiciary who is held responsible for the supervision of elections (e.g. Bulgaria, Poland, Portugal, and Romania). But more recently, a growing number of countries have opted for the creation of independent electoral authorities, of independent electoral commissions. This trend has first started outside Europe, in democracies in transition in Africa (e.g. Cameroon, Ghana, Togo, or South Africa), or in Asia (e.g. Papua New Guinea, the Philippines, or Cambodia). But in the last twenty years, consolidated democracies have also opted for these electoral management bodies. Canada and Australia were among the first to follow the trend. In the European Union, the Netherlands and the United Kingdom have now an independent Electoral Commission.

The core and main tasks of these Electoral Authorities lay in most countries in the organization of elections. It involves, among other things, determining who is eligible to vote, as well as receiving and validating the nominations of electoral participants, conducting polling, counting the votes, and totalling the votes. But in many cases, Independent Electoral Authorities have been attributed tasks going beyond these core missions, such as to conduct studies on how to improve the electoral system of the country (including the delimitation of district boundaries), the training of electoral staff, or the organization of voter information campaigns and of civic education. In a small number of cases, these authorities are assigned the regulation of political parties.

First of all, when a regulation of party finance and of campaign funding is in place, states may decide to charge the electoral authority to supervise the financing of political parties. In the United States, because of the highly complex and decentralized electoral administration, a Federal Electoral Commission was established in 1975, in order to supervise political party campaign financing regulations. In Portugal, the National Election Commission is in charge of analysing the electoral campaign financing. In Canada, the Electoral Commission is responsible for auditing the accounts of political parties. The UK Electoral commission is responsible for monitoring and publishing significant donations to parties as well as regulating spending by parties on election campaigns. Moreover, the Canadian EC monitors and enforces election-spending rules for candidates, political parties and third parties. The Canadian EC is also engaged in publishing financial information concerning district associations, nomination contestants and leadership contestants.

In addition to that, in some countries such as Canada and South Africa, the national electoral authorities also administer political party registration, and serve as the guardian of political party symbols and independent candidates’ logos.

Finally, some electoral authorities are responsible for verifying that political parties are acting in correspondence to the principles of the national party laws. It ranges from their
respect of the basic principles of the party law, like the regular participation to elections, to the fact that their conduct respects the fundamental rights entrenched in the constitution of the country. It can even go as far as making sure that political parties do follow their obligation regarding intra-party democracy. It is the case in the USA for the organization of party primaries for the selection of candidates, or in Queensland, Australia.

4.3. The current specifications in EU law

As mentioned in Chapter 3, section 3.3, the control and supervision of European political parties is currently in the hands of the European Parliament. The current EC Regulation of Political parties at the European level specifies that ‘The European Parliament shall verify regularly that the conditions set out in Article 3(a) and (b) continue to be met by political parties at European level’ (article 5). At the request of one quarter of the MEPs, from at least three Member States, a procedure of verification shall be conducted. The European Parliament is assisted in this task by a committee of independent eminent specialists nominated by the EP, the Commission, and the Council.

This situation contrasts with the situation at the level of the Member States. As observed in Chapter 1, section 1.4 (comparative perspective on the criteria, conditions, and procedures), there is some variation among the Member States as regard the body or institution in charge of the supervision and management of political parties. However, one could identify three categories: either these functions are performed by Ministries (Home Affairs or Justice), or by Courts, or by independent Electoral Authorities. The functions of registration (recognition), monitoring (respect of constitutional principles), and supervision of parties are never in the hands of the legislative branch (Parliament), except in Ireland. This is in sharp contrast with the current specifications under EU law.

Based on the observation of this discrepancy, and on the trend towards a growing role of Electoral Authorities in modern democracies (section 4.2), this study puts forward suggestions regarding the possible future development of a body in charge of the management and the supervision of European political parties.

4.4. Elements for a future role of an independent European Electoral Authority

In order to create an independent European Electoral Authority (EEA), the current specifications would have to be modified. The supervision and control of European political parties would have to be attributed to this new body.

More generally, based on the analysis of the role of national Electoral Commissions in section 5.2, the role attributed to this independent European Electoral Authority could be organized around three main axes (Table 6).

First, the EEA could be responsible for the conduct of European elections. It would have to act in coordination with the national authorities if EP elections are still organized by the Member States. In the case of the creation of a trans-national constituency for the elections of some MEPS, the EEA would be in charge of the process. In this situation, the EEA could be responsible for receiving and validating the nominations of electoral participants from European parties. The staff of the EEA would also be involved in setting the standards to be
Criteria, conditions, and procedures for establishing a political party in the Member States of the EU

followed for ensuring that all voters have a fair, full, and equal access to the electoral process. In addition, the European Electoral Authority would be associated to the electoral operations for the registration of voters, for the conduct of the elections, for the counting and the totalling of the votes, and for the allocation of seats to lists and candidates, in close collaboration with the national electoral authorities.

Table 6. Summary of the recommendations regarding the role of an independent European Electoral Authority in the management and supervision of European political parties

<table>
<thead>
<tr>
<th>Functions of Electoral Authorities</th>
<th>Possible innovations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization of elections</td>
<td>To organize European elections:</td>
</tr>
<tr>
<td></td>
<td>- Receiving and validating nominations</td>
</tr>
<tr>
<td></td>
<td>- Ensuring access to all citizens</td>
</tr>
<tr>
<td></td>
<td>- Supervision of the elections (voters registration, counting of the votes, allocation of seats)</td>
</tr>
<tr>
<td>Recognition of political parties</td>
<td>To organize the recognition of European political parties:</td>
</tr>
<tr>
<td></td>
<td>- Maintaining and publishing the Register of European Political Parties</td>
</tr>
<tr>
<td></td>
<td>- Validation of changes in names, symbols, or party statutes</td>
</tr>
<tr>
<td></td>
<td>- Dissolution of parties</td>
</tr>
<tr>
<td>Regulation of party finances</td>
<td>To monitor public funding to political parties, political donations, and campaign expenditures</td>
</tr>
<tr>
<td>Organization of debates</td>
<td>To be in charge of conducting studies on potential reforms</td>
</tr>
<tr>
<td>Organization of information campaigns / civic education</td>
<td>To organize conferences, seminars, and forums about European elections or European political parties</td>
</tr>
</tbody>
</table>

Secondly, an independent EEA could be responsible for the recognition of European political parties. In that case, it shall be in charge of maintaining and publishing the Register of European Political Parties. The purpose of that registration would be to identify who is eligible for participation in the electoral process, and/or to determine who is entitled to receive public benefits such as state funding and indirect subsidies, depending on the provisions defined by the Regulation of European parties. Besides, the independent EEA shall also be responsible for the maintenance of the party register, for the validation of changes in names, symbols, or party statutes, and for the dissolution of parties.

Thirdly, the EEA could perform the key role of monitoring public funding to political parties, political donations, and campaign expenditures. These tasks are crucial for ensuring transparency and integrity of political parties and electoral spending. This would ensure that citizens are aware of the sources of funding available to political parties and candidates for European elections, and thereby increase legitimacy and trust in the democratic process. Since the possibility of funding gives parties operational autonomy, a party
‘represented in the European Parliament by at least one of its members’ shall receive funding ‘once it has met the conditions for being regarded as a political party at EU level’.

Therefore, the EEA could be in charge of various financial tasks, including receiving, assessing, and publishing donation statements and, subsequently, expenses statements from European political parties. In other words, the EEA could be responsible of auditing accounts of European political parties. Besides, it could administer the payment of public funds to qualifying political parties. Additionally, ‘in the event of infringements of the rules concerning, for example, the transparency of donations’ (20), the EEA could be given the competence of imposing penalties on European political parties, which is typically the case for national electoral bodies. It should enable the EEA to expose those infringements and impose penalties, to the extent that the Electoral Committee considers proportionate to the non-compliance which has occurred.

The range of tasks conferred to the EEA could be extended beyond these three responsibilities. The review of the tasks attributed to national Electoral Authorities emphasized their role in the reflection on the organization of elections. The UK Electoral Commission, for example, is responsible for advising the government on changes regarding electoral matters, and for advising those involved in the conduct of elections and referendums. In the same way, the EEA could be in charge of conducting studies on potential reforms. For example, it could lead the debates on the introduction of an EU-wide constituency for the election of some MEPs, or on the direct election of the president of the Council / the Commission.

Finally, the EEA could contribute to an increase of European awareness. The national electoral commission in Canada, for example, designs campaigns of civic education, especially towards younger citizens. The EEA could be playing a similar role. It could organize conferences, seminars, and forums where practitioners and/or citizens would embark in a critical dialogue and exchange their views over issues related to European elections and/or European political parties.

5. CONCLUSION

KEY FINDINGS

- The comparative analysis of the roles and functions of Party Laws/Electoral Laws and of independent electoral authorities in modern democracies allows for the suggestion of possible innovations at the EU level on two major aspects;

- On the one hand, the current regulation at the EU level could be amended so as to fulfil the same five traditional functions as national Party Laws;

- On the other hand, the current regulation at the EU level could be amended so as to grant the management and supervision of parties to an independent body (e.g. a 'European Electoral Authority'), which could fulfil the same five traditional functions as national Electoral Authorities.

This study aimed at providing guidance on how to continue the evolution of present European political parties towards autonomous organizations having a legal base in EU law.

In order to do so, the analysis has been conducted on four aspects, each developed in an individual chapter. The first chapter has presented an overview of the conditions and procedures for establishing a political party in the member States of the European Union. The second chapter has developed the trends in the decision-making process inside political parties. The last two chapters were dedicated to specific recommendations, first on the development of a legal base of a European party statute under EU law, and second on how to involve a European Electoral Authority in the supervision of European political parties.

The methodology used in the study was adapted to the content of each chapter. The first chapter is based on extensive data collection of the Party Law or Electoral Law of each Member State of the European Union. The collected material was then subjected to a content analysis. The other chapters are based on secondary sources in the form of the major scientific publications on the topic.

The comparative overview of the conditions and procedures to establish a political party in the member States (Chapter 1) emphasized two major trends. On the one hand, the longitudinal overview showed a clear trend towards the proliferation of regulation of political parties via Party Laws (PL) or Electoral Laws (EL) over time. On the other hand, the requirements included in these laws tend to increase rather than diminish over time.

These trends have significant consequences on the organization of political life. They constrain the emergence and development of political parties and contribute to regulate the electoral offer for the citizens. They also stress the changing position of political parties in democracies, towards a closer connection to the state (Katz and Mair 1995).

The comparative overview of the transformation of the decision-making process inside political parties (Chapter 2) has also emphasized two major elements. On the one hand, there is a clear trend towards more inclusive methods to choose the party leaders over time. On the other hand, no such trend can be identified when analysing the method for the selection of candidates.
These transformations did not have the expected consequences at the system level. It did not stop the decline in party membership, nor did it contribute to reverse the trend of declining trust towards political parties among citizens. At the party level, the analysis points out that inclusiveness of the selectorate is one dimension of democracy, but that this dimension does not have a linear relationship with the other dimensions of democracy, namely representation, competition, and responsiveness or accountability. Therefore, one should be careful in the interpretation of the trend towards more inclusive selectorate as a trend towards democratization of intra-party life.

Based on these two chapters offering a longitudinal and comparative overview of the processes at stake, Chapter 3 provides a description of the current legal basis for parties under EU law. But most importantly, it offers recommendations or suggestions for a legal basis of a European party statute under EU law. These recommendations follow the traditional functions of party laws in democracies: to define what is a political party, to regulate party activities; to organize intra-party democracy, and to supervise the funding of political parties.

Finally, Chapter 4 discusses the functions of electoral authorities in modern democracies and, on that basis, offers recommendations regarding the role of an independent European Electoral Authority in the management and supervision of European political parties. More specifically, the chapter presents suggestions in five broad domains: the organization of European elections; the recognition of political parties, the monitoring of public funding of parties, the organization of public debates, and the organization of information campaign and civic education programs.

These suggestions are based on a comparative analysis of the roles and functions of party laws and electoral authorities in modern democracies. They are based on an extensive interpretation of the role and functions of party laws and electoral authorities. Each suggestion is of course open for discussion. The concluding remarks of Chapters 1 and 2 provide useful elements for the discussion.
REFERENCES


• van Biezen, I., ‘Party Regulation and Constitutionalization: A Comparative Overview’, in Nordlund, P., Reilly, B. (eds.), *Political Parties and Democracy in Conflict-Prone*


# ANNEX

## Table 1. Conditions and procedures for party registration, Member States of the European Union

<table>
<thead>
<tr>
<th>Code</th>
<th>Country name</th>
<th>Source</th>
<th>Documents required</th>
<th>Signatures /members</th>
<th>Deposit / Fee</th>
<th>Registration Authority</th>
<th>Sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td>BE</td>
<td>Belgium</td>
<td>No PL/EL</td>
<td>na</td>
<td>na</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>BG</td>
<td>Bulgaria</td>
<td>PL (1990)</td>
<td>Party statutes, Copies of the minutes of the constituent assembly, List of the names and addresses of the party members elected on the leading body</td>
<td>50 citizens</td>
<td>na</td>
<td>Sofia City Court</td>
<td>na</td>
</tr>
<tr>
<td>BG</td>
<td>Bulgaria</td>
<td>PL (2009)</td>
<td>Declaration of association, Charter of the political party, Minutes of the constituent meeting, List of founding members, Declarations of individual membership, Notarized specimens of the signatures of those representing the political party, List of 2500 party members, Notarized declaration by the leadership of the political party about the authenticity of documents, Certificate of uniqueness of the name</td>
<td>50 citizens (committee of initiative), 500 founding members</td>
<td>na</td>
<td>Sofia City Court</td>
<td>2500 party members</td>
</tr>
<tr>
<td>CZ</td>
<td>Czech Republic</td>
<td>PL (1993)</td>
<td>Party statutes (2 copies), Registration application signed by preparatory committee, Seat of the party (on the territory of the Czech Republic)</td>
<td>1000 citizens (petition)</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Country</td>
<td>Party Name</td>
<td>Registration Requirements</td>
<td>Approval Bodies</td>
<td>Loss of Status Conditions</td>
<td></td>
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<td></td>
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<tr>
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</tr>
<tr>
<td>CZ</td>
<td>Czech Republic (2006)</td>
<td>Party statutes (2 copies) Registration application signed by preparatory committee (minimum 3 members) Seat of the party (on the territory of the Czech Republic) 1000 members (petition)</td>
<td>Election Board (to approve new party names) Ministry of the Interior and Health (to register parties)</td>
<td>Loss of status if no participation to elections for a period of 6 years</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DK</td>
<td>Denmark</td>
<td>Special form from voters supporting the registration of the party (except for the German Minority Party) 1/175 of the valid votes cast at the previous election</td>
<td>na</td>
<td>na</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DE</td>
<td>Germany (1967-2004)</td>
<td>Proof of activity on the German territory Party statutes (in accordance with the provisions of the PL on intra-party organization and candidate selection) Name &amp; acronym of the party Party program Composition of the executive members of the party and its local branches</td>
<td>Federal Electoral Committee or other electoral administration and Federal Constitutional Court</td>
<td>Loss of status if no electoral mandates in 2 subsequent elections of the Riigikogu</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EE</td>
<td>Estonia (1994)</td>
<td>Party statutes Party Platform Contact details of the leadership of the party Copy of the minutes of the foundation meeting List of members Sketch of the insignia of the party</td>
<td>State authority authorized by the Government of the Republic</td>
<td>na</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Country</td>
<td>Name</td>
<td>Year</td>
<td>Language</td>
<td>Documents Required</td>
<td>Status</td>
<td></td>
<td></td>
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<tr>
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<td></td>
</tr>
<tr>
<td>EE</td>
<td>Estonia</td>
<td>2010</td>
<td>PL</td>
<td>Party statutes, Party Platform signed by the members of the leadership, Contact details of the leadership of the party, Copy of the minutes of the foundation meeting, List of members (with ID and date of joining), Sketch of the insignia of the party</td>
<td>If below 1000 members, court might request compulsory dissolution. If activities directed at changing the constitutional order of Estonia, activities shall be terminated.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IE</td>
<td>Ireland</td>
<td>1992-1997</td>
<td>EL</td>
<td>Application form including information on: Name of the party; Address of the party's headquarters; Officer(s) authorized to certificates for candidates; Type(s) of elections for which the party is registered; where the party is registered (if part of the state)</td>
<td>Register of Political Parties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EL</td>
<td>Greece</td>
<td></td>
<td></td>
<td>Certificate signed by party leaders (with ID details); Articles of association</td>
<td>Register in the Ministry of the Interior</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ES</td>
<td>Spain</td>
<td>1978</td>
<td>PL</td>
<td>Founding charter notarized including information on: ID of promoters; name of party (check specific regulations); members of management bodies; address; statutes;</td>
<td>Register in the Ministry of the Interior</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ES</td>
<td>Spain</td>
<td>2002</td>
<td>PL</td>
<td></td>
<td>Dissolution if judicially declared illegal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FR</td>
<td>France</td>
<td>No PL/EL</td>
<td></td>
<td>na</td>
<td>na</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If below 1000 members, court might request compulsory dissolution. If activities directed at changing the constitutional order of Estonia, activities shall be terminated.
Criteria, conditions, and procedures for establishing a political party in the Member States of the EU

<table>
<thead>
<tr>
<th>Country</th>
<th>Date</th>
<th>Language</th>
<th>Requirement</th>
<th>Authority</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>IT</td>
<td>Italy (2005)</td>
<td>EL</td>
<td>Deposit the symbol/logo and name of the party</td>
<td>Ministry of Interior</td>
<td>na</td>
</tr>
<tr>
<td>CY</td>
<td>Cyprus (2011)</td>
<td>PL</td>
<td>Party statutes Application for registration signed by party leader (only if not represented in parliament)</td>
<td>Registry</td>
<td>If respects constitution and laws If internal structure serves the free function of democracy</td>
</tr>
<tr>
<td>LV</td>
<td>Latvia (2006)</td>
<td>PL</td>
<td>200 founders (18 years+)</td>
<td>Party Register authority Approbation of application by Cabinet</td>
<td>na</td>
</tr>
<tr>
<td>LT</td>
<td>Lithuania (1990)</td>
<td>PL</td>
<td>400 members Elected leadership</td>
<td>Ministry of Justice</td>
<td>Statutes and programs cannot contradict the laws of the Republic of Lithuania</td>
</tr>
<tr>
<td>Country</td>
<td>Date of Application</td>
<td>Language</td>
<td>Required Documents</td>
<td></td>
<td></td>
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<tr>
<td>---------</td>
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<td>--------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LT</td>
<td>Lithuania (2004)</td>
<td>PL</td>
<td>Application including: Party statutes, Party Program, Copy of the minutes of the constituent meeting, # founders who voted for the founding of the political party, Founders' list.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LU</td>
<td>Luxembourg (2008)</td>
<td>No PL/EL</td>
<td>na</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HU</td>
<td>Hungary (1989-2003)</td>
<td>PL</td>
<td>Declaration of members and acknowledgment of the provisions of the PL.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MT</td>
<td>Malta (2009)</td>
<td>No PL</td>
<td>na</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NL</td>
<td>Netherlands (2011)</td>
<td>EL</td>
<td>copy of the notarial instrument containing the association’s charter, proof of entry in the commercial register, proof of payment, declaration by the political grouping designating its authorized agent and deputy agent at the central electoral committee.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PL</td>
<td>Poland (1990)</td>
<td>PL</td>
<td>Application including name &amp; seat of the party, method of appointment of authorized body; party symbol(s); list of founding members.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Country</td>
<td>Year</td>
<td>Application Details</td>
<td>Number of Founding Members</td>
<td>Registering Authority</td>
<td></td>
</tr>
<tr>
<td>---------</td>
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<td></td>
</tr>
<tr>
<td>PL</td>
<td>2008</td>
<td>Application including name &amp; seat of the party, party symbol(s); list of founding members; party statutes; list of 1000 founding members</td>
<td>1000 members (18+)</td>
<td>Register by the District Court in Warsaw</td>
<td></td>
</tr>
<tr>
<td>PT</td>
<td>1974</td>
<td>Application including: Party statutes, name, acronym and symbol, and list of founding members</td>
<td>5000 citizens (18+)</td>
<td>Register of the Supreme Court of Justice</td>
<td></td>
</tr>
<tr>
<td>PT</td>
<td>2003</td>
<td>Application including: Party statutes; declaration of principles or manifesto; name, initials and symbol; list of founding members</td>
<td>7500 registered electors</td>
<td>Register of the Supreme Court of Justice</td>
<td></td>
</tr>
<tr>
<td>RO</td>
<td>1996</td>
<td>Application including: Party statutes; Party Program; list of signatures of founding members; declaration of party leader; list of members; seat and patrimony; proof of bank account</td>
<td>10000 founding members (at least 15 counties)</td>
<td>Tribunal of the Municipality of Bucharest</td>
<td></td>
</tr>
<tr>
<td>RO</td>
<td>2003</td>
<td>Application including: Party statutes; Party Program; list of signatures of founding members; declaration of party leader; list of members; seat and patrimony; proof of bank account</td>
<td>25000 founding members (at least 18 counties)</td>
<td>Tribunal of the Municipality of Bucharest</td>
<td></td>
</tr>
<tr>
<td>Country</td>
<td>Year</td>
<td>Application</td>
<td>Cost of Publication</td>
<td>Parties Registry</td>
<td>Deregistration</td>
</tr>
<tr>
<td>---------</td>
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<td>---------------</td>
</tr>
<tr>
<td>SI</td>
<td>1994-2007</td>
<td>Party statutes; including: name &amp; acronym; party statutes and agenda; minutes from the founding assembly; names of elected bodies</td>
<td>200 citizens (legal age)</td>
<td>Maintenance of Registry of the Ministry of Interior of the Republic of Slovenia</td>
<td>Deregistration if Party did not participate at the National Assembly elections or local community elections on two consecutive occasions</td>
</tr>
<tr>
<td>SK</td>
<td>1993</td>
<td>Party statutes</td>
<td>1000 citizens (18+)</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>SK</td>
<td>2005</td>
<td>na</td>
<td>Administration fee</td>
<td>Ministry of Interior of the Slovak Republic</td>
<td>na</td>
</tr>
<tr>
<td>FI</td>
<td>1969-1992</td>
<td>na</td>
<td>5000 citizens</td>
<td>Na</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>SE</td>
<td>2005</td>
<td>na</td>
<td>1500 signatures of voters</td>
<td>Central Election Authority</td>
<td>na</td>
</tr>
<tr>
<td>UK</td>
<td>United Kingdom (1998)</td>
<td>Application including: name of the party; address; leader</td>
<td>na</td>
<td>Admin. fee</td>
<td>Register of political parties</td>
</tr>
</tbody>
</table>

**Note:** n/a = not applicable: the Party Law or Electoral Law does not contain any requirements for party registration
DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT C
CITIZENS’ RIGHTS AND CONSTITUTIONAL AFFAIRS

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- Justice, Freedom and Security
- Gender Equality
- Legal and Parliamentary Affairs
- Petitions

Documents