Financing of political structures in EU Member States

Abstract

While some areas of political finance regulation have experienced a significant convergence (e.g. the expansion of state funding for parties and other political entities and the establishment of disclosure requirements), largely as a result of international standards and monitoring, others exhibit major differences across the EU Member States (e.g. limits on private donations and on spending, disclosure thresholds, nature and quality of oversight). This study underlines the need to implement international standards in order to achieve objectives in specific regulatory environment, rather than importing “off-the-shelf” solutions.

Background

The European Parliament (EP) contracted Blomeyer & Sanz on 1 September 2020 to prepare an analytical study on ‘Political structures financing in the Member States - How funding is provided for the national political parties and their foundations, and political groups within the national parliaments, and how the use of funds is controlled’.

Aim of the study

• To enhance understanding of political funding arrangements and rules in place in Member States.
• To provide material for dissemination to and discussion among interested players within the EP and contact points of the national parliaments, thereby contribute to a basis for improving political finance regulation in both Member States and the EP.

Main findings

The study collected summary data on regulation of political finance in all EU Member States. The data identifies areas in which the regulation of political finance is broadly similar and there has been significant convergence of regulations in certain areas due to the pressure of international standards and evaluation processes, especially that of the Council of Europe Group of States against Corruption (GRECO), but also the Organisation for Security and Cooperation in Europe (OSCE); the EU does not have any explicit standards on political financing. These areas are in particular the coverage of public subsidies (although there are two important exceptions), definition of impermissible sources of political donations, the strictness of reporting requirements, and technical means of reporting and disclosure.

However, the study also reveals major differences across the EU27 in political financing rules and frameworks for implementing them and ensuring compliance. These differences are apparent in limits (caps) on private donations, limits and restrictions on election campaign spending, thresholds for public...
disclosure of donations, and the set-up of institutional frameworks for oversight. There also exist areas of regulation that are a response to emerging issues (particularly third-party involvement in election campaigns and campaigning on social media), where regulation varies widely.

Five cases studies focused in more depth on the following issues: state subsidies for political parties, public financing of parliamentary groups, transparency in the reporting and disclosure of donations, foundations linked to political parties, and campaigning by third parties on social media. The case studies yielded the following main findings and lessons:

State subsidies for political parties. The share of state subsidies in total party income has increased dramatically since the 1980s, generally accounting for a clear majority of party funding. Fears that state funding will undermine parties’ links to their membership and voters are not supported by the evidence, and the example of Germany shows how subsidies may be used to incentivise more democratic participation through small donations. On the contrary, the abolition of public funding in Italy and dramatic reduction in Hungary raise concerns for their impact on democratic competition. Lessons for good practice are to ensure the stability of public funding against dramatic changes, adopt criteria for disbursement that are based on votes and do not exclude new parties and consider innovative solutions such as subsidies that match private donations.

Public financing of parliamentary groups. Almost all EU Member States provide financial subsidies to parliamentary groups for the specific purpose of fulfilling their parliamentary roles, meaning in practice predominantly administrative costs such as support personnel and office costs. The experience of Germany and other countries indicates that such funds are vulnerable to misuse for electoral purposes. Key lessons are that the rules defining permitted uses of subsidies could be more detailed, and the importance of ensuring that parliamentary groups that receive significant public funds must report in detail on their use to an independent oversight body.

Transparency in the reporting and disclosure of donations. While all EU member states have adopted regulations regarding the reporting and public disclosure of donations, what must be reported and what must be disclosed vary substantially. Over half of EU Member States have higher thresholds for disclosure than reporting, there is often a striking discrepancy between low reporting and high disclosure thresholds and the average threshold of €2,400 carries potential corruption risks. Key lessons from the case study are that reporting requirements should only be waived in order to prevent an excessive burden on small political entities, and that where thresholds for public disclosure are felt to be necessary due to privacy concerns, they should be set at a level below where they become risky (for example the level of average monthly income). In addition, countries should establish online political finance databases, online reporting and disclosure and consider other transparent solutions such as online accessibility of party bank accounts.

Foundations linked to political parties. Although foundations appear to be important phenomena in a small number of EU Member States and receive public funding in only seven, they are significant actors in both Germany and Spain. They receive public funding in both countries (in Germany much larger than subsidies to parties), linked to the electoral success of the party to which they are linked. In Germany foundations receive subsidies dwarving those provided to political parties. In Spain many party foundations exist and their number is growing. While there is no evidence of significant use of foundations for electoral purposes of parties in either country, there are concerns over gaps in regulation that could allow this to happen: while a German Constitutional Court decision prohibits foundations from acting for the parties that founded them, there are concerns that this is not explicitly stated in any law; in Spain the law appears to directly invite the use of foundations’ financial means for party purposes. Lessons include the need to explicitly prohibit the use of foundation finances or engagement of foundations for party/electoral purposes, the desirability (as in the European Parliament) of permitting only one publicly-financed foundation per party, and the need for reporting and transparency requirements similar to those to which parties are subject.
Campaigning by third parties on social media. The case study covered two emerging issues and the challenges of regulating them: the increasing role of third parties – entities campaigning for but independently of candidates or political parties; and the growth of political advertising on social media platforms. While campaigning by third parties is generally regarded as a right to democratic participation, it may be legitimately restricted for similar reasons as in the case of electoral participants – otherwise these may be eclipsed by third parties. Third party campaigning is regulated explicitly in only three EU Member States (Czech Republic, Ireland, Latvia) and is prohibited in four member states (France, Lithuania, Romania, and Slovakia). The lessons of the case study are: the need to pursue balanced regulation of third parties, including registration of them as electoral participants and making the subject to campaigning rules (on donations, spending and reporting/disclosure) that reflect the rules in place for parties. Regulation of social media advertising is less restrictive than regulation of advertising on other media in eight Member States, and political advertising on social media is only banned in France. Lax regulation may facilitate the use of social media to circumvent or contravene advertising regulation and regulation of political advertising, and increase the risk of foreign interference as witnessed in recent elections in several Member States. The combination of third parties campaigning on social media therefore raises double challenges. Key lessons are: the need for social media platforms to pay a role by requiring advertisers (wherever they are) to comply with domestic advertising and campaigning regulations, establishing archives of political advertisements and ensuring controls to ensure third parties are not used to circumvent campaign finance regulations on foreign donations; and the need to oblige third parties to place political advertisements with clear labelling/digital imprints and retain meaningful invoices for such advertising; and to consider expanding the remit (and resources) of political finance oversight bodies to explicitly address online political advertising.

General lessons

The data collected by this study also confirms and highlights the complex nature of political finance regulation – in particular its pursuit of multiple objectives that may not align, the incentives of political entities to react to regulations to blunt their effectiveness, and the specificity of regulatory contexts (countries). Because of this, international standards – which underpin much of the analysis in the case studies – must be applied carefully. Standards should be interpreted in terms of the objectives they are intended to achieve rather than as checklists of measures to be implemented in the same way everywhere, although some standards may legitimately be more prescriptive than others. Differences in regulation between countries may reflect poor regulations in some of them, but will also in part reflect legitimate differences that generate different needs. The concluding part of the study therefore advocates the “objective-based” application of standards, informed in specific contexts by full Regulatory Impact Assessment (RIA). In addition, there is a clear need for further research to explore the efficacy of various regulatory solutions in different contexts, for example comparing mechanisms for securing regulatory compliance through monitoring and sanctions on the one hand, to ones based on guidance and voluntary compliance on the other: in other words, to find out what works where, and why.