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## **REPORT**

on the application of Regulation (EC) No 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding  
(2010/2201(INI))

Committee on Constitutional Affairs

Rapporteur: Marietta Giannakou

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the application of Regulation (EC) No 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding (2010/2201(INI))

*The European Parliament,*

- having regard to Article 10(4) of the Treaty on European Union and Article 224 of the Treaty on the Functioning of the European Union,
  - having regard to Article 12(2) of the Charter of Fundamental Rights of the European Union,
  - having regard to Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level (political parties and their foundations as defined in Article 2(3) and (4) thereof) and the rules regarding their funding<sup>1</sup> (the Funding Regulation), particularly Article 12 thereof,
  - having regard to its resolution of 23 March 2006 on European political parties<sup>2</sup>,
  - having regard to the Secretary-General's report to the Bureau of 18 October 2010 on party funding at European level, submitted pursuant to Article 15 of the Bureau decision of 29 March 2004<sup>3</sup> on implementing the Funding Regulation,
  - having regard to the Bureau note of 10 January 2011 as the revised version of the Bureau decisions taken on 13 December 2010,
  - having regard to Rules 210(6) and 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs (A7-0062/2011),
- A. whereas Article 10(4) of the Treaty on European Union states that ‘political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union’, while Parliament and the Council, in accordance with Article 224 of the Treaty on the Functioning of the European Union, lay down the regulations governing these parties and their political foundations and, in particular, the rules regarding their funding,
- B. whereas the Charter of Fundamental Rights of the European Union states clearly that political parties at Union level contribute to expressing the political will of the citizens of the Union,

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<sup>1</sup> OJ L 297, 15.11.2003, p. 1, as amended by Regulation (EC) No 1524/2007 of the European Parliament and of the Council of 18 December 2007, OJ L 343, 27.12.2007, p. 5.

<sup>2</sup> OJ C 292 E, 1.12.2006, p. 127.

<sup>3</sup> Amended by Bureau decision of 1 February 2006 and 18 February 2008.

- C. whereas the European Union must function on the basis of the principle of ‘representative democracy’, as stated in Article 10(1) of the Treaty on European Union,
- D. whereas the foundations for European political parties were laid in the Treaties of Maastricht and Nice, which introduced the possibility of funding and thus gave them operational autonomy vis-à-vis the parliamentary groups,
- E. whereas in 2007, following a call by Parliament<sup>1</sup>, the Commission presented a proposal introducing the funding of political foundations at European level (European political foundations), which was adopted in December 2007, with a view to supporting the European political parties in the debate on public policy issues and on European integration,
- F. whereas the 2007 amending Regulation<sup>2</sup> seeks to facilitate the integration process for European political parties by enabling the political parties within the Union to structure and organise themselves more effectively,
- G. whereas the 2007 amending Regulation considerably enhanced the role of the European political parties in elections to the European Parliament by stipulating that their expenditure could include funding for election campaigns; whereas, however, this option was restricted by the condition that the appropriations concerned should not be used for the direct or indirect funding of national political parties or candidates,
- H. whereas all the European political parties that are funded have signed a code of conduct, regarded by the Bureau as binding on all parties, laying down rules to be complied with during election campaigns,
- I. whereas the enhancement of the role of European political parties is necessarily tied to their involvement in elections to the European Parliament,
- J. whereas the 2007 amending Regulation calls for more formal recognition of the European political parties,
- K. whereas the 2007 amending Regulation is oriented towards the creation of fully organised and effective political parties at European and Member State level through a balanced process of institutionalisation,
- L. whereas the 2007 amending Regulation seeks to bring about the organisational convergence of political parties and their foundations at European level, while at the same time recognising the different tasks pursued by, respectively, political parties and political foundations,
- M. whereas this organisational convergence can be achieved only by establishing a common political, legal and fiscal status for the European political parties, although this must not entail any standardisation of the organisation of European political parties and their foundations, for which the European political parties and their foundations themselves

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<sup>1</sup> Resolution of 23 March 2006 on European political parties, paragraph 14 (OJ C 292 E, 1.12.2006, p. 127).

<sup>2</sup> Regulation (EC) No 1524/2007 of the European Parliament and of the Council of 18 December 2007, OJ L 343, 27.12.2007, p 5.

have sole competence,

- N. whereas the requirement to adopt a legal statute for the European political parties and their political foundations based on the law of the European Union is a clear and substantial step towards enhancing democracy in the Union,
- O. whereas organisational and functional convergence and improvements to the funding process can be achieved only by adopting a uniform and common European statute for all European political parties and their political foundations based on the law of the European Union,
- P. whereas the regulation on political parties at European level does not draw a distinction between the recognition and the funding of political parties,
- Q. whereas the Bureau note of 10 January 2011 recommended tightening the criteria for the funding of European political parties; whereas this amounts to a restriction of party competition at European level as long as the criteria for the legal recognition and funding of political parties are identical,
- R. whereas the 2007 amending Regulation provides a clear legal and financial basis for the establishment of integrated political parties at European Union level in order to raise European awareness and effectively express the will of the citizens of the European Union,
- S. whereas the funding of European political parties is subject to the provisions of Title VI, 'Grants', of the Financial Regulation<sup>1</sup> and its Implementing Rules<sup>2</sup>,
- T. whereas the Bureau, as the body responsible for implementing the Funding Regulation within Parliament, decided in 2006 on a number of significant improvements to the implementing rules, such as increasing the prefinancing option from 50 % to 80 % in order to simplify the procedure and improve the solvency of the beneficiaries, and relaxing the rules on transfers between chapters in the budgets of beneficiaries in order to enable them to adjust their budgets to changing political circumstances,
- U. whereas experience with the funding of European political parties and their affiliated European political foundations has shown that they need more flexibility and comparable conditions as regards the carrying-over of funds to the following financial year and the building-up of reserves from own resources over and above the prescribed minimum level of expenditure to be financed from their own funds,
- V. whereas the European political parties spend on average almost half of their budgets on centralised administration (staff, rent, etc.) and another quarter on meetings of (statutory and non-statutory) party bodies, the rest being spent on election campaigns and support for affiliated organisations,
- W. whereas the European political foundations have a different expenditure pattern, spending

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<sup>1</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002, OJ L 248, 16.9. 2002, p. 1.

<sup>2</sup> Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002, OJ L 357, 31.12.2002, p. 1.

on average 40 % of their budgets on centralised administration and meetings and another 40 % on external services, such as studies, research, publications and seminars,

- X. whereas the main source of the European political parties' own resources is membership fees collected from the member parties, and whereas less than 5 % of their total income is made up of individual membership subscriptions and donations,
- Y. whereas the share of their total income accounted for by funding from the Union budget is higher in the case of the European political parties than in that of the European political foundations,
- Z. whereas donations do not yet represent a significant part of the funding, with only three parties and two foundations receiving donations on a regular basis in 2009,
- AA. whereas there is a potential conflict between, on the one hand, the aim of facilitating and speeding up funding, thus making it more effective, and, on the other, the aim of minimising the financial risk to the Union budget,
- BB. whereas during the period covered by this report, 2008-2011, no penalties have had to be imposed on any party or foundation funded,
- CC. whereas the European political parties and foundations have to acquire legal personality in accordance with the law of the Member State of their seat in order to be eligible for funding, and whereas they do not have a common legal status,
- DD. whereas the subsidies for European political parties and foundations are 'grants' within the meaning of Title VI of the Financial Regulation and its Implementing Rules, but their specific nature means that they are not comparable with any grant awarded and administered by the Commission; whereas this is reflected in a significant number of provisions in the Funding Regulation setting out exceptions; whereas this solution is not satisfactory,

### ***The new political environment***

1. Notes that political parties – and their linked political foundations – are essential instruments of a parliamentary democracy, holding parliamentarians to account, helping to shape the political will of citizens, drawing up political programmes, training and selecting candidates, maintaining dialogue with citizens and enabling citizens to express their views;
2. Stresses that the Treaty of Lisbon provides for this role of the political parties and their foundations with a view to creating a European polis, a political space at EU level, and a European democracy, of which the European Citizens' Initiative is a key constitutive element;
3. Notes that the European political parties, as they stand, are not in a position to play this role to the full because they are merely umbrella organisations for national parties and not directly in touch with the electorate in the Member States;

4. Notes with satisfaction, however, that the European political parties and political foundations have nevertheless become indispensable actors in the political life of the European Union, in particular by shaping and voicing the respective positions of the various ‘political families’;
5. Emphasises the need for all European political parties to conform to the highest standards of internal party democracy (as regards the democratic election of party bodies and democratic decision-making processes, including for the selection of candidates);
6. Takes the view that, once it has met the conditions for being regarded as a political party at EU level, a party may receive funding only if it is represented in the European Parliament by at least one of its members;
7. Points out that political parties have rights, obligations and responsibilities and should therefore follow converging general organisational patterns; considers that this organisational convergence can only be achieved by establishing a common legal and fiscal status based on EU law for the European political parties and their political foundations;
8. Is convinced that authentic legal status for the European political parties and a legal personality of their own, based directly on the law of the European Union, will enable the European political parties and their political foundations to act as representative agents of the European public interest;
9. Takes the view that the European political parties should interact and compete on matters relating to common European challenges and the European Union and its development at three levels: regionally, nationally and at European level; considers that it is of the utmost importance for European political parties to be efficient and productive at EU and national level and beyond;
10. Stresses the important challenges in terms of organisational capacity that the European political parties will have to face in the light of the reforms that may be made to the European electoral system (creation of an additional constituency, establishment of transnational lists), ;
11. Notes that this is, in principle, in keeping with the idea of European political parties participating in referendum campaigns, when the referendums concerned are directly linked to issues relating to the European Union;
12. Decides, therefore, to request the Commission to propose a draft statute for European political parties in accordance with Article 225 of the Treaty on the Functioning of the European Union;
13. Notes that what is needed on a shorter-term basis is an improved regulatory environment for the European political parties and foundations, involving, as a first step, the adoption of the European statute;

### *Additional reform proposals*

14. Considers that Members sitting in regional parliaments or assemblies should be taken into account in connection with the fulfilment of the funding conditions only if the parliament or assembly in question is endowed with legislative powers;
15. Points out that the award of funding and the closure of the accounts of the European political parties and foundations are bureaucratic and cumbersome procedures; considers that this stems to a great extent from the fact that funding payments are regarded as 'grants' within the meaning of the Financial Regulation, which is appropriate for the funding of projects or associations, but not for parties;
16. Takes the view, therefore, that the Commission should propose the creation of a new title in the Financial Regulation devoted solely and tailored specifically to the funding of European parties and foundations; considers that the Funding Regulation should, as far as its implementation is concerned, refer to the provisions of this new title;
17. Stresses that the self-financing of parties and foundations is a sign of vitality; believes that it should be encouraged by raising the present limit of EUR 12 000 per year for donations to EUR 25 000 per year/per donor, combined, however, with a requirement to disclose the donor's identity at the time of receipt, in accordance with the legislation in force and in the interests of transparency;
18. Considers that requiring the submission of 'annual work programmes' as a precondition for funding is inappropriate for political parties; points out, moreover, that such a requirement does not exist in any EU Member State;
19. Underlines the fact that the timing of funding is crucial if it is to fulfil its purpose; calls, as an exception to the implementing rules for the Financial Regulation, for the funding to be made available at the beginning of the financial year at 100 %, not 80 %; considers that in view of positive past experiences the risk to Parliament is negligible;
20. Points out that the Financial Regulation stipulates that grants 'may not finance the entire operating expenditure of the beneficiary body'; observes that complying with this rule is especially difficult for foundations and leads to evasive bookkeeping techniques (for example 'contributions in kind'); points out that almost none of the funding schemes in Member States require partial self-financing, as this can disadvantage smaller or recently established parties;
21. Points out that the independent resources that the European political parties are required to demonstrate could be reduced to 10 % of their total budget, in order to further enhance their development; at the same time, believes that their own resources in the form of physical resources should not exceed 7.5 % of their total budget;
22. Notes that in the case of European political foundations the revision of the legal instrument should be taken as an opportunity to abolish the requirement to demonstrate that they have resources of their own;
23. Points out that in the context of this revision the limitation imposed on European political foundations requiring them to use their funds within the European Union should be removed; thereby enabling the foundations to play a role both inside and outside the EU;

24. Emphasises, however, that relaxing the funding regime would have to be counterbalanced by providing for sanctions in the Funding Regulation where they are currently lacking; these sanctions could take the form of financial penalties in the event of infringements of the rules concerning, for example, the transparency of donations; emphasises the need to lay down the same conditions governing the building-up of reserves from own resources above the limit and the carrying-over of funds for both European political parties and their affiliated European political foundations;
25. Points out that since 2008 European political parties have been entitled to use sums received as grants for ‘financing campaigns conducted ... in the context of the elections to the European Parliament’ (Article 8, third paragraph, of the Funding Regulation); also points out, however, that they are prohibited from using these sums for financing ‘referendum campaigns’; believes, however, that if European political parties are to play a political role at EU level, they should have the right to participate in such campaigns as long as the subject of the referendum has a direct link with issues concerning the European Union;
26. Invites the European political parties to start a process of considering the terms for direct individual membership and appropriate arrangements for individuals’ direct or indirect participation in the internal activities and decision-making processes of the parties;
27. Instructs its President to forward this resolution to the Council and the Commission.

## EXPLANATORY STATEMENT

### *I. Regulatory background*

European political party development is critical for the activation of public interest in EU affairs. By transcending the centrality of the oft-raised questions 'who governs and how', it calls attention to the question 'who is governed'. Underlying discourses on European party regulation is a deeper concern of how to co-constitute a transnational civic space composed of free and equal citizens, and what a collective founding, in the form of a 'civic contract' among diverse peoples, might entail for the future of integration. Designing a reform package for European political parties as a means of mobilizing the democratic energies of individual and organized citizens is not an easy task, not least due to the EU's systemic complexity. But this may be turned into an advantage, should one clarify the 'constitutive mission' of European political parties and how an informed and principled dialogue on their political development can facilitate the emergence of a plural demos, whose members can direct their democratic claims to, and via, the central institutions. As the EU should not be detached from its constituent identities, the making of a European "demos" refers to a discursive civic space, where politically connected citizens are free to develop common democratic 'grounds' in order to pursue their chosen political goals. Strengthening European political parties is a means of enhancing participatory governance in the EU and finally strengthening democracy.

The Regulation, 2004/2003 adopted in 2003, provides a framework for the transparent funding of political parties at European level. It reflects Article 10(4) of the TEU<sup>3</sup>, which acknowledges that parties "*contribute to forming European political awareness and to expressing the will of citizens of the Union*", and Article 224 of the TFEU, which foresees that rules regarding their funding are to be adopted by the ordinary legislative procedure. Furthermore, the regulation as amended by the Regulation 1524/2007, includes political foundations in the same funding procedure as it foresees their respective role.

The main requirement for funding is classification as a political party/foundation at European level under Articles 2(3) and 3 of the Regulation. A political party at European level may file an application for funding with the European Parliament each year. The Regulation defines "political party" as an association of citizens, which pursues political objectives, and is established and recognized in accordance with the national rules of at least one Member State. In order to be qualified as a "political party at European level", a party must:

- have legal personality in the Member State in which its seat is located;
- be represented, in at least one quarter of the Member States, by Members of the European Parliament (or in the national or regional Parliaments or regional assemblies), or it must have received, also in at least one quarter of the Member States, at least 3% of the votes cast in each of those Member States at the most recent European Parliament elections;
- observe, in particular in its program and in its activities, the founding principles of the European Union, namely the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law;

- have participated in elections to the European Parliament, or have expressed the intention to do so.

The European Parliament ensures that the political parties at European level continue to meet these criteria. If any of these conditions is no longer satisfied, the relevant party forfeits its status of "political party at European level" and consequently is excluded from funding under this Regulation.

*Political foundations* affiliated to a political party at European level may also submit an application for funding via this party. The Regulation defines "political foundation at European level" as an entity (or network of entities) which has legal personality in an EU Member State and is affiliated with a political party at European level. Political foundations at European level have the task of observing, analysing, communicating, and contributing to the debate, in particular with a view to European elections. The financial rules applicable to foundations are identical to those regarding parties. The application for funding must be accompanied by documents proving that it is a political party at European level. It must also give evidence of the party's political program and a statute defining in particular the bodies responsible for political and financial management as well as the natural persons holding, in each of the Member States concerned, the power of legal representation. Any subsequent amendment to the above-mentioned documents, must be notified to the European Parliament within two months. In the absence of such notification, funding is suspended. The European Parliament takes a decision within three months following receipt of an application for funding.

## ***II. The need and proposals for reform***

It is of the outmost importance that the European political parties that promote democracy in the Union are awarded a common and uniform legal status. The adoption of a European statute based on the EU law seems more important than ever for the parties in order to achieve their respective goals. The European political parties should possess a legal personality in order to bridge the wide gap between the fiscal treatment of the European political parties and that applied to the European Institutions. The reforms proposed by the Secretary General report of 2010 and the Bureau decisions of the 13th December 2011 are the result of thorough analysis of the present situation, providing an overall positive answer to the questions, preoccupations and remarks of the European political parties. In the draft report the proposals are oriented towards an organisational uniformity of the European political parties. The organisational convergence can only be achieved by the common political, legal and fiscal status of the European political parties.

The rapporteur strongly welcomes the establishment of a special and uniform European legal form for the European political parties for the reasons especially of organisational and fiscal convergence.

With regard to the recognition criteria, the rapporteur proposes that only national or regional parties should be entitled to set up a European party. For the formation of European Parties, the Statute for European Parties takes equal account of European, national and regional

elected representatives as long as the regional representatives refer to regional parliaments. The possibility of recognition of regional elected representatives should therefore be retained for the purpose of forming parties but only in the case of regions with legislative powers. In addition, every European political party should be represented by at least one Member of the European Parliament. To be funded by the European Parliament, a European political party must be represented in the European Parliament by at least one MEP. Furthermore, it should be taken into consideration the criteria of fully respected internal democracy in the composition and in the formation of both national, regional and European political parties themselves. This requirement would mean that party that does not fulfil the internal democracy condition does not count for the requirement of being represented in at least seven Member States pursuant to article 3 (1) of the funding Regulation.

With reference to the independent resources that European political parties demonstrate the figure could be reduced to 10% in order to facilitate any further development. Moreover, the demonstration of resources in the form of the "controversial" physical resources should be limited to 7.5. As regards though the political foundations, the rapporteur is of the opinion that the revision of the legal instrument should be the opportunity to abolish the requirement to demonstrate that they have resources of their own. There should be adopted with an agreement with European political parties and their foundations of uniform criteria for the use of funds. There is no problem and no controversy among the parties, the possibility for foundations to build -up reserves and carry-over funds. With reference to the donations' issue a reasonable relaxation in the limit of donation would be sufficient if it is the limit is agreed from 12.000 EUR to 25.000 EUR.

As discussed in the Report but also in accordance with the European political groups hearing before the drafting of the report, European political parties should be able to participate in referenda only on issues that are strongly linked to European union. The legal personality and the common European statute of European political parties will further give space to the adoption of a transnational list of Members of the European Parliament as proposed in the Duff report. Creating a transnational party system is yet difficult but currently the circumstances are more mature than before. The first step should be the legal personality and the European statute of the European political parties with the step of the adoption of a transnational list of MEPs to be elected to follow.

For the funding procedure the rapporteur is in favour of maximum transparency. Transparent funding is a fundamental element of supporting democratic values and promoting good governance. As noted by the Transparency International, following the amendment of regulation 2004/2003 in 2007 transparency has in fact increased; financial reports of all parties and foundations can be easily found on a central European Parliament's website as demanded by Article 9a of the amended Regulation. Funds for European political parties should be approved by means of an award decision with the procedure being streamlined. European political foundations should be permitted to accumulate reserves and carry over funds. European political foundations are welcome to use EP's technical facilities in return for payment as European political parties may do so. In order to guarantee transparency t should be possible to perform ex-post checks on the funding.

It is strongly believed and supported that it is legitimate for the European political parties to request that their status be brought into line with that of the European Institutions and calls

upon the Bureau of the Parliament to investigate the matter further.

### ***III. Conclusive remarks***

Creating a safe and transparent environment for the function and the funding of European political parties is an act deeply democratic. We need a space, a European space, of acting political parties that bring citizens in the core of the Union and help them in their every day life. The adoption of specific rules enables this target and it is twofold: at one hand it provides current, quick and public information in the formation of the European political parties and their common European status. Citizens are aware that participating in a European political party signifies that are covered by the law of the European Union and that political parties have rights and obligations. On the other hand, the European statute of European political parties paves the way for the creation of a transnational party system. It is the first and indispensable step towards more participation, more democracy and finally, more Europe.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	15.3.2011
<b>Result of final vote</b>	+: 19 -: 2 0: 1
<b>Members present for the final vote</b>	Andrew Henry William Brons, Carlo Casini, Andrew Duff, Ashley Fox, Matthias Groote, Roberto Gualtieri, Enrique Guerrero Salom, Zita Gurmai, Gerald Häfner, Stanimir Ilchev, Constance Le Grip, David Martin, Morten Messerschmidt, Paulo Rangel, Potito Salatto, Algirdas Saudargas, György Schöpflin, Søren Bo Søndergaard, Indrek Tarand, Rafał Trzaskowski, Luis Yáñez-Barnuevo García
<b>Substitute(s) present for the final vote</b>	Elmar Brok, Marietta Giannakou, Íñigo Méndez de Vigo, Helmut Scholz, Rainer Wieland