



EUROPEAN
COURT
OF AUDITORS

EN

Opinion 01/2022

(pursuant to Article 287(4), TFEU)

**concerning the Commission's
proposal for a Regulation on
the statute and funding of
European political parties and
European political foundations**

Contents

	Paragraph
Introduction	01-04
General remarks	05-09
Specific comments	10-49
Financial impact of this proposal on the EU budget	10-11
Loans	12
Co-financing	13-15
Additional own resources	16-19
Contributions	20-27
Contributions from outside the EU	20-24
Contributions – other remarks	25-27
Donations	28-29
Reporting obligations	30-32
Sanctions	33-38
Financing referendum campaigns	39-43
Transparency of political advertising	44-47
Responsibilities of the Authority and the European Parliament	48
Simplifying the legal framework	49
Annex	
Cross-references between articles of the proposal and our comments	

THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 287(4) thereof,

Having regard to the Commission's proposal for a Regulation on the statute and funding of European political parties and European political foundations,

Having regard to the Council's request for an opinion, received on 21 January 2022,

Having regard to the European Parliament's request for an opinion, received on 31 January 2022,

Whereas:

(1) European political parties and European political foundations are not bodies set up by the Union within the meaning of Article 287(1) TFEU and, as such, are not subject to our audit. However, to the extent that they receive funding from the EU budget, we are competent to carry out audits based on the examination of records and on-the-spot visits to their premises, under the conditions laid down in Article 287 TFEU.

(2) Funds that European political parties and foundations receive from sources other than the EU budget are not automatically subject to our audit. However, because of the interaction between EU funding and funding from other sources, we may also need to examine the latter in the course of our audit work.

(3) Our statement of assurance audits from 2019 and 2014 identified weaknesses in procurement procedures and ineligible expenditure claims by European political parties.

(4) Regulation (EU, Euratom) No 1141/2014¹ of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations entered into force on 1 January 2017 and has since been amended twice².

¹ Regulation (EU, Euratom) No 1141/2014 of the European Parliament and the Council of 22 October 2014.

² By Regulation (EU, Euratom) 2018/673 of the European Parliament and of the Council of 3 May 2018 and by Regulation (EU, Euratom) 2019/493 of the European Parliament and of the Council of 25 March 2019.

(5) In accordance with the Regulation's revision clause (Article 38) the European Parliament³ and the European Commission⁴ presented separate reports on the application of the Regulation 1141/2014.

(6) On 25 November 2021, the Commission submitted to the European Parliament and to the Council a proposal for a Regulation on the statute and funding of European political parties and European political foundations⁵ (the proposal) which will replace the Regulation 1141/2014.

HAS ADOPTED THE FOLLOWING OPINION:

³ European Parliament's Report (A9-0294/2021) of 26 October 2021 on the application of Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations (2021/2018(INI)) followed by the Resolution of 11 November 2021.

⁴ COM(2021) 717 final of 23.11.2021.

⁵ COM(2021) 734 final, 2021/0375 (COD) of 25.11.2021.

Introduction

01 The Treaty⁶ provides that European political parties contribute to forming European political awareness and to expressing the will of citizens of the Union. There are currently ten registered European political parties and affiliated foundations⁷.

02 The total amount of EU funding available for European political parties has increased over time, from an initial €6.5 million in 2004⁸ to €46 million in 2021⁹. The funding awarded to European political foundations increased from €5 million in 2008 to €23 million in 2021. The current Regulation provides that 10 % of the annual budget is distributed to eligible parties equally, while the remaining 90 % is distributed in proportion to the number of Members of the European Parliament affiliated to a party. The funding is distributed as pre-financing.

03 The final amount of funding is established after an external auditor has issued a report and following controls by, respectively, the Authority for European Political Parties and European Political Foundations (“the Authority”) and the Authorising Officer of the European Parliament. Eligible expenditure covers meetings, conferences, personnel, studies, and campaign costs for European elections. The Authority registers European political parties and European political foundations and may impose sanctions.

04 According to the Commission’s explanatory memorandum¹⁰, the proposal aims to:

- increase the financial viability of European political parties and foundations;
- facilitate their interactions with their national member parties, so that European political parties can more easily participate in national campaigns on EU topics;

⁶ Article 10(4) of the [Treaty on European Union](#).

⁷ Source: [Authority for European Political Parties and European Political Foundations](#).

⁸ [European Parliamentary Research Service: Statute and funding of European political parties under Regulation 1141/2014 \(Ex-post evaluation\)](#), pp. 29-31.

⁹ [European Parliament Budget for 2021](#), p. 46.

¹⁰ [COM\(2021\) 734 final, 2021/0375 \(COD\) of 25.11.2021](#), p. 2.

- close the remaining loopholes regarding sources and transparency of financing (in particular, donations and financing from outside the EU);
- cut excessive administrative burden;
- increase legal certainty;
- address the emerging new environment of online political campaigning, the risk of foreign interference, and the infringement of data protection rules in political advertising.

General remarks

05 As in our previous opinions¹¹, and consistent with our mandate, we focus on elements with a potential impact on the EU budget, and consequently we do not give views on those parts of the proposal involving mainly political choices. Notwithstanding this important caveat, we consider that the proposal is generally consistent with the Commission's main stated objectives (see paragraph [04](#)).

06 We welcome those provisions that aim at increasing the transparency in the funding of European political parties and European political foundations, such as due diligence mechanism for donations.

07 In our opinion, the proposal nevertheless contains a number of shortcomings on issues that include:

- loans (see paragraph [12](#));
- co-financing (see paragraphs [13-15](#));
- additional own resources (see paragraphs [16-19](#));
- contributions from member parties and organisations from outside the EU (see paragraphs [20-24](#));
- other contributions and donations (see paragraphs [25-29](#));
- sanctions (see paragraphs [33-37](#));
- financing by European political parties of national referendum campaigns (see paragraphs [39-43](#)), and;
- the transparency of political advertising (see paragraphs [44-47](#)).

08 We also note that the proposal introduces additional obligations for the Authority, which will add complexity to its role.

¹¹ The ECA issued two opinions relating to the funding of European political parties and foundations: [Opinion No 1/2013](#) concerning the Regulation 1141/2014 and [Opinion No 5/2017](#) concerning the amending Regulation of 3 May 2018.

09 In the following section, we make specific comments on the proposal. In paragraphs [12](#), [37](#), and [49](#), we reiterate our previous suggestions which remain unaddressed in the current proposal. The [Annex](#) cross-references these specific comments with the proposed amendments.

Specific comments

Financial impact of this proposal on the EU budget

10 The Annex to the proposal containing the Legislative Financial Statement provides information on the budgetary implications for the Authority due to the expected cost of one additional staff member. We note that the Authority made a higher estimate in its draft budgetary plan.

11 The Commission's explanatory memorandum to the proposal states that the lowering of the co-financing rate for European political parties may require the provision of additional financial resources and that it will be for the budgetary authority to decide on an annual basis. We note, therefore, that the budgetary implications are uncertain.

Loans

12 European political parties and foundations were increasingly taking out loans to reach the own resources requirements¹². However, while loans are included in the definition of "donations" and "contributions" under Articles 2(7) and 2(8), there are no specific provisions on the origin, terms and conditions of loans, as already indicated in our previous opinions (see paragraph 05).

Co-financing

13 Article 20(4) of the proposal includes the lowering of the co-financing rate for European political parties from their own resources from the current 10 % to 5 %. Furthermore, the proposal introduces a new 0 % financing rate from their own resources for the year of elections to the European Parliament. The Commission explains these proposed changes by the difficulties that small parties in particular have in raising finance, and because it would align the rules with the co-financing rates for foundations.

¹² European Parliamentary Research Service: Statute and funding of European political parties under Regulation 1141/2014 (Ex-post evaluation), p. 39.

14 We note that the co-financing from the EU budget has been increased from 75 % in 2004 to 85 % in 2007 and to 90 % since 2018¹³. We do not comment on the proposed increase to 95 % as it is a matter of political decision. According to a recent study prepared for the Parliament, it balances the difficulties of European political parties in raising co-financing and greater financial stability, with the risk that European political parties lessen already tenuous direct links with civil society and Member States¹⁴.

15 In our opinion, the financing of 100 % proposed in the year of elections to the European Parliament is not coherent with the concept of co-financing, which means that resources shall not be provided entirely from the EU budget. Therefore, we are of the opinion that a minimum contribution should come from the own resources of European political parties under current provisions of the Financial Regulation. In addition, two different co-financing rates in two different years may create complexity, in relation to the carry-overs of unused appropriations to the following year.

Additional own resources

16 At present, the revenue sources of European political parties and foundations, other than funds received from EU budget, are limited to either contributions or donations. A third category of revenue sources linked to the party's or foundation's own economic activity, defined as "own resources", is proposed in Articles 2(9) and 23(13). These "own resources" shall not exceed 5 % of the annual budget of the party or foundation.

17 We consider that the term "own resources" to define only the additional income generated by economic activities is imprecise, as in practice own resources already exist (revenue from contributions and donations). We therefore suggest using a more specific term, including in the title of Article 23 of the proposal.

18 Article 3(1)(g) of the proposal specifies that the registration of a European political party is conditional on it not pursuing profit goals. There is a risk that some

¹³ *Ibid.*, p. 34.

¹⁴ Study commissioned by European Parliament: Edoardo Bressanelli: "[Towards a revision of the Regulation on the statute and funding of European political parties and foundations](#)", March 2022, p. 52.

economic activities may not be compatible with that Article. Therefore, we suggest to list economic activities that will be considered as compliant with Article 3(1)(g).

19 We suggest adding provisions to avoid the risk that these additional own resources are collected in order to circumvent the rules applicable to contributions and donations, in particular those relating to maximum amounts and the origin of funds, specified in Article 23 of the proposal.

Contributions

Contributions from outside the EU

20 The current Regulation does not allow European political parties to collect contributions from member parties whose seat is outside the European Union, as explained in paragraph [24](#).

21 Articles 23(9) and 23(10) of the proposal would allow European political parties and foundations to collect contributions from member parties or organisations located in countries belonging to the Council of Europe. These contributions shall not exceed 10 % of the total contributions to limit the risk of foreign interference. The total value of contributions shall not exceed 40 % of the annual budget of a European political party or foundation. According to the Commission, the objective of this proposal is to enhance cooperation with long-standing members sharing EU values. Following Brexit, the European Parliament identified an increased need to revise different categories of party membership and the collection of membership fees¹⁵. Member parties from the United Kingdom are now considered as third-country members and are not allowed to provide contributions under the current legal basis.

22 Annex I to the proposal would require European political parties and foundations to submit a declaration that they commit to ensure that their member parties or organisations observe the values specified in Article 2 of the TEU¹⁶ (members from EU countries) or equivalent values (members from non-EU countries). This commitment

¹⁵ European Parliament's report (A9-0294/2021) of 26 October 2021 on the application of Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations (2021/2018(INI)), point 18, followed by the Resolution of 11 November 2021.

¹⁶ Respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

would also become an additional condition for registration in Article 3(1)(e) and Article 3(2)(d).

23 In our view, the proposal does not contain measures to adequately mitigate the risk of foreign interference in European political parties by members providing contributions and having their seat in the countries belonging to the Council of Europe and outside the EU. In practice, it would be difficult to ensure that such members observe the equivalent values referred to in Annex I to the proposal, as the term used is very broad, with no clear definition. We also note that allowing contributions from outside the EU is not consistent with another rule that forbids donations from entities based in third countries or from individuals from a third country who are not entitled to vote in elections to the European Parliament (see Article 23(6) of the proposal).

24 The explanatory memorandum of the proposal refers to the judgment of the General Court of 25 November 2020 in Case T-107/19¹⁷, which confirmed that a party outside the EU did not fall under the Regulation's definition of a "political party" as it was not an "association of citizens" (of the Union) and not "recognised by, or established in accordance with, the legal order of at least one Member State". The definition of a political party in Article 2(1) of the proposal remains unchanged. We consider that pursuant to Case T-107/19 contributions from member parties having their seat in non-EU countries could still be interpreted as prohibited.

Contributions – other remarks

25 In the interest of transparency, we are of the opinion that information on contributions received from individual members (physical persons) of a European political party or foundation should be made public in the same way as contributions received from member parties or organisations are public. We therefore suggest inserting a reference to Article 23(11) in Article 36(1)(f) of the proposal, with due respect for rules on data protection.

26 The second subparagraph of Article 23(11) states that the ceiling of €18 000 per year and per member on contributions from individual members shall not apply where the member concerned is also an elected member of the European Parliament, of a national parliament or of a regional parliament or regional assembly. We suggest deleting the second subparagraph of Article 23(11), in the interest of equal treatment.

¹⁷ See [Judgment of the General Court of 25 November 2020 in Case T-107/19](#).

27 In our view, there is a drafting mistake in the first subparagraph of Article 23(11), which should refer to paragraphs 9 and 10, rather than paragraphs 8 and 9.

Donations

28 Article 23(5) of the proposal provides that for all donations above €3 000, European political parties and foundations shall request donors to provide the necessary information for their proper identification, and that the European political parties and foundations shall transmit such information to the Authority upon its request. Article 23(8) specifies that the Authority may request additional information to carry out verifications on donations if it has grounds to believe that any donation has been granted in breach of the Regulation. According to Article 23(3), within six months prior to the elections to the European Parliament, donations and corresponding expenditure shall be reported on a weekly basis. We welcome these provisions which aim at increasing the transparency of donations.

29 We note that Article 23(6) specifies that anonymous donations and contributions shall not be accepted by European political parties and foundations. Setting a threshold of €3 000 for the identification of donors in Article 23(5) is inconsistent with this ban on anonymity.

Reporting obligations

30 Currently, European political parties and foundations have a reporting obligation to submit their annual financial statements and accompanying notes in accordance with the law applicable in the Member State in which they have their seat, and also on the basis of international accounting standards. Article 26(1)(a) of the proposal removes the obligation to present the financial statements based on international accounting standards in order to simplify the administrative burden and reduce the costs.

31 We note that European political parties and foundations provide information for the European Parliament to perform appropriate controls, that their accounts are audited by an external auditor, and that the Authority provides them with standard templates for the provision of information on donations and contributions.

32 We agree with the proposed Article 26(1)(a) which will reduce administrative burden but we highlight the continuing importance of the need for controls, to reduce

the financial risks to the EU budget. In the recent past, we have reported on weaknesses in public procurement and ineligible expenditure declared by European political parties¹⁸, which requires increased attention and makes us consider such expenditure to be of high risk.

Sanctions

33 Article 30(4)(a) of the proposal specifies that sanctions shall be imposed as “a fixed percentage” of the annual budget of the European political party or foundation in cases of non-quantifiable infringements. The proposal introduces in Article 30(4)(a), points (i) to (iv), a range of percentages, without further defining the applicable rules. We are of the opinion that there is an inconsistency between the concepts of fixed percentage and range of percentages within the same Article.

34 Article 21(4) would require European political parties to demonstrate that their member parties have “continuously” published information on their websites on the gender representation among the candidates at the last elections to the European Parliament and on the evolution of gender representation among their Members of the European Parliament. Article 30(2)(a)(ix) of the proposal introduces sanctions for the non-compliance with the provisions of the above-mentioned article. We suggest better defining the obligation to publish information on the gender representation as the word “continuously” is not clear about how often the information needs to be updated.

35 In Article 30(2)(a)(vi) of the proposal, the Commission proposes to drop the provisions included in the current regulation allowing the Authority to impose sanctions following inaccuracies detected in the annual financial statements by the bodies authorised to audit or conduct checks on the beneficiaries of funding from the general budget of the European Union. While we understand that these provisions were dropped in view of the removal of the obligation to publish annual financial statements on the basis of the international accounting standards, we consider that it would limit the impact of audits. We therefore suggest maintaining the possibility for the Authority to impose sanctions following inaccuracies detected by audit bodies, including where they concern the annual financial statements presented in accordance with the law applicable in the Member State in which European political parties or foundations have their seat.

¹⁸ See paragraph 9.8 of the [ECA annual report for 2019](#) and paragraph 9.11 of the [ECA annual report for 2014](#).

36 The proposed Article 30 on sanctions specifies two different approaches in case a party or foundation is in one of the situations of exclusion referred to in Article 136(1) of the Financial Regulation:

- Article 30(1)(a) – the Authority shall decide to remove a European political party or foundation from the Register by way of sanction;
- Article 30(2)(a)(v) – for non-quantifiable infringements the Authority shall impose financial sanctions which are further defined in Article 30(4)(a)(vi) as 50 % of the annual budget of the European political party or foundation concerned for the preceding year.

In our view, the proposal should clarify if these sanctions are cumulative.

37 The sanctions for quantifiable infringements (such as for irregular sums received or not reported) are still capped at 10 % of the annual budget of the European political party or foundation (Article 30(4)(b) of the proposal), though we suggested removing this maximum ceiling in our previous opinions.

38 The proposal removes the 3-month period between a decision by the Authority to de-register a European political party or foundation and the decision’s entry into force. According to Article 11(5), the decision shall take effect upon notification. We agree that this amendment contributes to stronger protection of EU financial interests.

Financing referendum campaigns

39 The funding of European political parties may be used to finance campaigns conducted by the European political parties in the context of elections to the European Parliament in which they or their members are participating. The current rules do not allow for the funding (direct or indirect) of other parties, and in particular national political parties and of referendum campaigns by European political parties. Article 24(2) of the proposal introduces a possibility to finance referendum campaigns, if they concern “the implementation of the Treaties of the Union”.

40 National political parties usually take an active part in referendum campaigns. In our opinion, it would be difficult to distinguish between the financing of referendum campaigns and indirect funding for national parties (to cover costs that those national parties would have to spend otherwise for the campaigns). The indirect funding of national parties continues to be prohibited by Article 25 of the proposal.

41 In addition, the term “the implementation of the Treaties of the Union” is not very precise and in practice, it would be difficult to determine which particular referendum campaigns are eligible for funding.

42 Referendums organised on the national level, are governed by the Member States’ law. In the majority of the Member States, the funding of national parties or political campaigns from abroad is not allowed¹⁹.

43 We therefore consider that because of the difficulties to control the eligibility of the expenditure proposed by Article 24(2), it would be not advisable to enable financing national referendum campaigns by European political parties.

Transparency of political advertising

44 Article 5 of the proposal introduces the obligation for European political parties to establish a policy for the use of political advertising. In addition, European political parties will be required to transmit to the Authority information on each political advertisement, which shall be published by the Authority in the repository. Member States will have to designate national regulatory authorities to supervise compliance with these requirements and notify the Authority thereof.

45 We welcome the aim of this proposal which is to increase the transparency of political advertising. We consider, however, that the provisions are not sufficiently clear in Article 5(6) of the proposal concerning the involvement of national regulatory authorities and their cooperation with the Authority. There is a risk of overlapping of competences, for example concerning checks on the policy for political advertising and on transmission of information on political advertisement. We suggest reviewing the responsibilities of each control body concerned.

46 Article 5(1) and Article 5(5) of the proposal require European political parties to comply with the provisions of the forthcoming Regulation on the transparency and targeting of political advertising²⁰ (not adopted yet), in particular when European

¹⁹ Donations from abroad are not allowed in 22 out of 27 Member States; Source: Study requested by the Directorate General for Finance of the European Parliament: [Financing of political structures in EU Member States](#), June 2021, pp. 17-18.

²⁰ COM(2021) 731 final of 25.11.2021.

political parties are using targeting or amplification techniques involving the processing of personal data or when engaging with advertising services.

47 We do not comment on the details of these provisions, which are proposed in another Regulation. However, we take note that the European Data Protection Supervisor issued an opinion²¹ on the Regulation on targeting of political advertising suggesting a full ban on microtargeting for political purposes and the prohibition of targeted advertising based on pervasive tracking.

Responsibilities of the Authority and the European Parliament

48 Control obligations are shared between the Authority and the Authorising Officer of the European Parliament. Article 32(3) of the proposal requires that they shall regularly exchange views and information on the interpretation and implementation of this Regulation. While we welcome this addition, we consider that the proposal does not sufficiently address the risks of overlapping of responsibilities and gaps in controls:

- Limited competences given to the Authority: Article 28(6) does not include explicitly the Authority as a body authorised to carry out the necessary checks and verifications on-the-spot.
- Unclear division of responsibilities between the Authority and the European Parliament: Article 34(1) of the English language version of the proposal states that in case of a deregistration of a European political party or foundation, “they” shall recover Union funding.
- No specific frequency of controls: Articles 7(2) and 11(1) state that the Authority shall “regularly” verify that the conditions for registration and the governance provisions continue to be complied with by registered European political parties and foundations.
- Two bodies having similar responsibilities for controls: Article 20(1) provides *inter alia* that the Authorising Officer of the European Parliament sets the terms and conditions for applications for funding by European political parties. Articles 21(3)-(4) require European political parties to include details relating to political programmes and logos, and gender representation, with their application for funding to the European Parliament. The Authority has the right, under

²¹ The European Data Protection Supervisor issued its [Opinion No 2/2022 on 20 January 2022 on the Proposal for a Regulation on the transparency and targeting of political advertising](#).

Article 30(2)(a)(viii) and (ix), to impose sanctions if it considers that these requirements are not observed.

Simplifying the legal framework

49 Specific provisions on funding of European political parties and foundations are included in the proposal and in the Financial Regulation²². In addition, the proposal introduces provisions concerning political advertising, which will also be regulated by a new Regulation on the transparency and targeting of political advertising²³. This new Regulation has not been adopted yet. We reiterate our previous opinion that reducing the number of legal texts in order to avoid possible overlapping of the rules would simplify the legal framework.

This Opinion was adopted by the Court of Auditors in Luxembourg on 7 April 2022.

For the Court of Auditors



Klaus-Heiner Lehne

President

²² Regulation (EU, Euratom) 2018/1046 of the European Parliament and the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union.

²³ COM(2021) 731 final of 25.11.2021.

Annex

Cross-references between articles of the proposal and our comments

Article of the proposal	Specific comment	Paragraph of ECA Opinion
2(1)	Contributions	24
2(7), 2(8)	Loans	12
2(9)	Additional own resources	16
3(1)(e), 3(2)(d)	Contributions	22
3(1)(g)	Additional own resources	18
5	Transparency of political advertising	44
5(1)	Transparency of political advertising	46
5(5)	Transparency of political advertising	46
5(6)	Transparency of political advertising	45
7(2)	Responsibilities of the Authority and the European Parliament	48
11(1)	Responsibilities of the Authority and the European Parliament	48
11(5)	Sanctions	38
20(1)	Responsibilities of the Authority and the European Parliament	48
20(4)	Co-financing	13
21(3)	Responsibilities of the Authority and the European Parliament	48
21(4)	Sanctions / Responsibilities of the Authority and the European Parliament	34, 48
23	Additional own resources	17, 19
23(3)	Donations	28
23(5)	Donations	28, 29
23(6)	Contributions / Donations	23, 29

Article of the proposal	Specific comment	Paragraph of ECA Opinion
23(8)	Donations	28
23(9), 23(10)	Contributions	21
23(11)	Contributions	25, 26, 27
23(13)	Additional own resources	16
24(2)	Financing referendum campaigns	39, 43
25	Financing referendum campaigns	40
26(1)(a)	Reporting obligations	30, 32
28(6)	Responsibilities of the Authority and the European Parliament	48
30(1)(a), 30(2)(a)(v), 30(4)(a)(vi)	Sanctions	36
30(2)(a)(vi)	Sanctions	35
30(2)(a)(viii)	Responsibilities of the Authority and the European Parliament	48
30(2)(a)(ix)	Sanctions / Responsibilities of the Authority and the European Parliament	34, 48
30(4)(a)	Sanctions	33
30(4)(b)	Sanctions	37
32(3)	Responsibilities of the Authority and the European Parliament	48
34(1)	Responsibilities of the Authority and the European Parliament	48
36(1)(f)	Contributions	25

Source: ECA, based on the proposal and our comments.