

Background note concerning the Commission proposal for a Council regulation on the Statute and financing of European political parties

CENTRAL GOAL

To adopt, as soon as possible and certainly before the end of the current mandate of the European Parliament, a regulation for European parties as foreseen in the EU Treaty (present article 191, new article 191) which :

- defines these parties, gives them legal personality and stipulates the procedure by which parties can be accepted or rejected.
- enables the European parties to organizationally and financially separate themselves from their respective political groups in the European Parliament (as requested by the Court of Auditors)
- supplies the parties with a framework and specifies rules for their finances in terms of funding, expenses and reporting in order to arrive at a high standard of accountability and transparency.

STEPS TAKEN SINCE 1999:

1999:

The five existing European parties (PES, PPE, ELDR, Greens and Regionalists) and their political Groups submit elements for a European Party statute to the European Commission with the request to prepare such a statute.

Spring 2000

The EU Court of Auditors criticizes the political Groups in the European Parliament for the lack of transparency in the support they give to their respective European parties and raise the question whether the Groups should undertake this activity.

Autumn 2000

The Bureau of the European Parliament adopts an interim regulation on European parties which allows political groups up to a maximum of 5% of their financial allocation and up to 10% of their staff to support their respective European parties. Furthermore transparency is demanded in the form of yearly reports. The interim regulation ends in 2004 and will automatically come to an end if an EU regulation for a party statute enters into force beforehand.

December 2000

In the new Nice Treaty article 191 is reinforced (see annex) in the form of a reference to a regulation. Linked to the new article a declaration was adopted referring to the

non-interference with national law, the impossibility to directly or indirectly fund national parties and the equal treatment for all forces represented in the European Parliament.

The ratification and entering into force of the new Treaty could take place in spring 2002.

February 2001

European Commission submits a proposal for a regulation to the Council and Parliament. The proposal is based on the present Treaty article 191 (in combination with 308) whereby Council will have to decide by unanimity and the European Parliament is consulted. (A regulation under the new article 191 will be on the basis of qualified majority decision-making and co-decision with the European Parliament)

The European Parliament is expected to adopt its opinion before summer after which the Council can decide.

ANALYSIS OF THE COMMISSION PROPOSAL

The Commission proposal is specific when it comes to the conditions under which European parties can be recognized, can have access to EU-public funding as well as to the requirement of own resources (minimum 25 %) and to the division of funds between the parties.

The relevant articles can be qualified as acceptable (and more or less in line with what parties and groups had previously suggested to the Commission.)

Our assessment is less positive however, in the areas where the regulation “fails to regulate” a number of elements which can be seen as necessary elements of an EU statute for political parties at the European level.

1 The Commission proposal does not provide for financial transparency and accountability

The Commission proposal is incomplete in the sense that it is insufficiently specific in order to create transparency and accountability in the following areas:

No arrangement of the future relations between political Groups and parties

The regulation does not address the future organizational and financial relations between European parties and their political groups in Parliament. It has to be decided as to how far European parties under a future statute can or can not receive support from their Groups in the European Parliament in the form of meeting rooms, interpreters, financial contributions etc. Only on the basis of this information can an accurate assessment be made of the budgetary needs of the parties. Moreover, this clarity is needed in order to prevent different European parties and EP Groups having different organizational and financial links.

No analysis of budgetary needs

The Commission proposes a yearly amount of Eur. 7 million for European party support. The proposal is not based on an analysis of costs involved which makes an informed debate about appropriate funding impossible.

No reference to campaign expenses

The regulation does not refer to (maximum) campaign expenses from European parties and national law concerned (The Parliamentary Groups in the European Parliament are not allowed to financially support campaigns for the elections to the European Parliament.)

No regulation of gifts, donations and sponsorships

The regulation fails to make clear whether European parties are allowed to receive gifts, donations and sponsorships from third parties.

If this support would be acceptable as such, limits should be set to yearly contributions per individual and/or organization and furthermore it has to be decided what the minimum amount is for gifts, donations and sponsorships in order for these to have to be made public.

A regulation in this sense has to be defined in relation to national law and practice so that compatibility is assured.

2 The regulation does not provide a legal personality for European parties and does not analyze compatibility with national law

No legal personality

The regulation does not propose a legal personality for European parties. These parties will have to be able to buy property, take loans and become employers. The legal personality will have to be compatible with national provisions which have not been analyzed.

No reference to the declaration adopted in Nice

The Commission proposal was written before the new Nice Treaty was adopted, and issued directly afterwards on the basis of the present Treaty. Therefore the regulation has not taken into account or interpreted the following declaration attached to the Nice Treaty, which as a political declaration is "in force" since the Nice Summit (and not from the moment that the new treaty is ratified.)

The conference recalls that the provisions of article 191 do not imply any transfer of competence to the European Community and do not affect the application of the relevant national constitutional rules.

(No analysis of national rules has been made)

The funding for political parties at European level provided out of the Community budget may not be used to fund, either directly or indirectly, political parties at national level.

(The regulation does not specify how to interpret this statement in relation to the organization and co-organization of activities in the member states as well as the involvement in the campaign for the elections to the European Parliament)

The provisions on the funding for political parties shall apply on the same basis to all the political forces represented in the European Parliament.

(This statement is referred to by parties and groups in the European Parliament which are not (yet) linked to European parties and claim access to the funds nevertheless)

No procedure for evaluation of democratic nature

While stressing the democratic nature and respect of fundamental values of parties, the regulation fails to specify how, when and by whom applicant parties are evaluated.

Also here in the context of compatibility with national provisions and provisions related to the European Parliament, further analysis is needed.

No sanctions

The regulation fails to refer to sanctions which can be taken in case parties break rules set out in the regulation.

3 The legal basis, transitional nature and timing are debated within Council

Within Council first deliberations have taken place concerning the legal basis of the present proposal which is regarded as considerably weaker (article 191 and 308), than the new Nice Treaty (new article 191).

Another element in the discussion is the transitional nature and timing of a statute under the present Treaty entering into force (1 January 2002) a few months before the Nice Treaty is generally expected to be ratified (Spring 2002).

OPTIONS FOR PLANNING AND REPAIR

Some of the weaknesses can be removed by amending the current proposal, for most of the missing elements however an additional analysis of relevant national law and provisions is required, on the basis of which a regulation can be completed.

As far as the current proposal at the level of the Council is concerned, if unanimity cannot be reached, it is of vital importance that the process of adoption of the statute is not interrupted and that the Commission, with the European Parliament and Council, prepares an improved and completed proposal under the present or Nice Treaties allowing decision-making to be completed as soon as possible and certainly well before the end of the current mandate of the European Parliament.

For thorough planning it is furthermore of importance that a six month (minimum) period between the adoption of a regulation and its entering into force is introduced. This period is needed to enable the party organizations currently located within the premises of the European Parliament to buy or rent new offices, employ and replace staff members and install their renewed secretariats.

The interim regulation of the European Parliament expires in 2004 and gives therefore the necessary room for manoeuvre for the five existing European parties to survive the current transitional period. In order for the political basis for the interim regulation to be upheld however it is of crucial importance that the process to come to an official EU statute is not interrupted.

Antony Beumer
PES Secretary General

ANNEX

Nice Treaty and declaration December 2000

POLITICAL PARTIES AT EUROPEAN LEVEL

ARTICLE 191 TEC

(old) Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.

(new added) The Council, acting in accordance with the procedure referred to in Article 251, shall lay down the regulations governing political parties at European level and in particular the rules regarding their funding.

Furthermore the following declaration to be included in the Final Act of the Conference on article 191 TEC, was adopted:

The conference recalls that the provisions of article 191 do not imply any transfer of competence to the European Community and do not affect the application of the relevant national constitutional rules.

The funding for political parties at European level provided out of the Community budget may not be used to fund, either directly or indirectly, political parties at national level.

The provisions on the funding for political parties shall apply on the same basis to all the political forces represented in the European Parliament.

2000/zzz (CNS)

Proposal for a

COUNCIL REGULATION

on the statute and financing of European political parties

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Article 191 of the EC Treaty acknowledges 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.
- (2) It is necessary to make provision for the financing of European political parties so as to cover part of their operating costs and the cost of promoting democracy in the countries applying for accession.
- (3) The conditions laid down by this Regulation are to be applied on the same basis to all European political parties, but account must be taken of their actual representativeness in the European Parliament.
- (4) It is necessary to make provision for a statute for European political parties and to ensure that they respect democratic principles, fundamental rights and the state based on the rule of law, in accordance with the Treaty, and that they have their own managing bodies.
- (5) In accordance with the subsidiarity principle, financing should be given solely to parties that are sufficiently representative at European level so as to avoid financing purely national parties, or parties to which financing has been refused at national level on the grounds of non-respect for democratic principles.
- (6) This financing is not to replace autonomous financing of European political parties.
- (7) The nature of the expenditure that can be financed under this regulation needs to be defined.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

- (8) Article 191 does not provide for specific means of action and the existence of European political parties is tightly bound up with the exercise of the four freedoms referred to in Article 14 of the EC Treaty and the full enjoyment of European citizenship, and recourse must accordingly be had to Article 308.
- (9) The appropriations allocated to financing parties must be determined in the annual budgetary procedure.
- (10) This regulation will expire at the end of the second financial year following its entry into force.

HAS ADOPTED THIS REGULATION:

Article 1 - Statute

Any European political party or union of parties established in the European Union may register its statute as a European political party with the European Parliament provided its programme and its activities respect the fundamental principles of democracy, respect for fundamental rights and the state based on the rule of law established by the Treaty on European Union. It must have established itself as a political group in the European Parliament or intend to establish one or to participate in an existing group. The statute shall define in particular the bodies responsible for the party's political and financial management.

Article 2 – Review body

Where there is a dispute as to the existence of these conditions, the European Parliament shall decide in accordance with the opinion of an independent committee of eminent persons appointed every five years by agreement between the European Parliament, the European Commission and the Council.

Article 3 - Authorisation to finance and verification measures

Financing may be charged to the general budget of the European Communities for European political parties that have registered a statute and meet the conditions laid down in article 5.

Parties qualifying for funding shall publish their budgets and their accounts annually. Appropriations for financing parties shall be determined in accordance with the budgetary procedure and shall be implemented in accordance with the financial regulation.

Control of financing granted under this regulation shall be carried out in accordance with the financial regulation applicable to the general budget and its implementing rules. Control shall also be exercised on the basis of an annual certification by an external and independent audit. This certification shall be transmitted to the European Parliament and the Court of Auditors. The services concerned may carry out any on the spot checks they may consider necessary to verify that the payments have been used in a lawful and regular manner. In carrying out their tasks, they may inspect all supporting and accounting documents and any other documents they consider relevant and may request any information needed to carry out their checks. Any document or information required by the Court of Auditors in order to carry out its task shall be supplied at its request by the political parties receiving payment from the budget.

Article 4 – Nature of expenditure

Financing under this regulation must only be used to meet expenditure that conforms to the objectives of the party as set out in its statute.

Such expenditure may include, among other things, administrative expenditure, logistical support, meetings, studies, information and publications directly linked to the objectives set out in the statute of the party.

The valuation of buildings, inventory and their depreciation must be carried out in accordance with the provisions of Commission regulation on the management of the accounts of the non-financial assets of the European institutions.

Article 5 - Financing (criteria)

Access to financing shall be given to European political parties which satisfy one of the following conditions:

- the party or its national components are represented by elected members in the European Parliament or the national Parliaments or regional Parliaments in at least five Member States; or
- the party or its national components received at least five per cent of the votes at the most recent European elections in at least five Member States of the Community.

Article 6 – Distribution

In application of Articles 1 and 5, financing is distributed annually as follows:

- 15% of the annual amount shall be distributed in equal shares among the parties that satisfy the conditions and make a duly substantiated request;
- 85% shall be distributed among qualifying European parties which have elected members in the European Parliament, in proportion to the number of elected members;
- Financing from the Community budget, including that provided for in this regulation, may not be given to any party unless it can prove that it receives at least 25% of its budget from other sources than the Community's general budget.

Article 7 – Final provisions

The Commission shall draw up a report within eighteen months of the entry into force of this regulation.

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Communities* and expire at the end of the second financial year following its entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.