

Explaining Legislative Conflict over the Adoption of Political Financing Law in the European Union

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In 2003 the European Union passed its first-ever regulation on the recognition and financing of extra-parliamentary EU political parties (in this law formally defined as ‘political parties at European level’, and known also as the so-called Europarties).¹ By enacting such a law, the (non-state) EU joined the majority of democratic states which provide political parties with public subsidies (Austin and Tjernstrom, 2003, van Biezen and Kopecky 2007). However, the fact remains that political parties at EU level are not central actors in the EU political system. Prior to the adoption of this regulation, they were often described as very loose organizations lacking both resources for political action and real influence (Hix and Lord 1997). Given this, it is then even more important to question why the EU decided to introduce public subsidies for such parties, and, as will be shown in this paper, why some MSs and some national political parties strongly opposed this step.

The central research problem of this paper is to analyse why the topic of regulating EU political parties in law has become so controversial and I will attempt to identify possible sources for this controversy. I will argue that the conflict would result from the tension, first, between various national traditions and specific legislative solutions relating to parties’ legal status and their financing and, second, between different views on the present and future of political integration in the EU. By studying this problem, not only do we learn about EU legislative politics and the Europarties, but we also contribute to the vast literature on party law and especially on party financing, since the results of this paper provide

¹ This paper was submitted in July 2012.

us with an additional source of knowledge on the models, traditions and habits of regulating political parties at the national level.

This article will be organized in three parts. First, after a review of the literature, it will propose an organizing perspective leading to the identification of the sources and dimensions of the conflict over the adoption of party law in the EU. In the second part, it will present the legislative procedures that led to the adoption of a law that was finally entitled *Regulation 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding*, hereinafter referred to as the Regulation (Regulation (EC) No. 2004/2003). In the final part, the findings of this research will be discussed by analysing the role of and divisions in the European Commission and, subsequently, in the European Parliament (EP). It will also discuss the amendments to the regulation carried out in 2007 and 2011. Finally, it must be noted that this paper is not devoted to an analysis of Regulation 2004/2003 as finally adopted (see Johansson & Raunio 2005), although its content will become clear through the investigation of the legislative works preceding its adoption. In researching this topic, I have analysed the materials coming from the EP (debates, reports, roll-call votes), the internal documents of the Council of the European Union, personal communications and press releases. Additionally, various datasets that provide detailed comparisons between national rules of political financing have been used (e.g. IDEA International dataset Austin and Tjernstrom, 2003, Council of Europe 2004, Party Law in Modern Europe database).

An organizing perspective

The key issue with which we must start is to identify an organizing perspective that will help to answer the main research questions of this paper. The first thing to note is that the subject of party financing is a part of comparative politics and, more precisely, of the party financing literature. However, given that the EU is a unique case both because its institutional environment differs sharply from that of the national states and, second, because EU parties are in very many aspects different from national political parties, we also need to search for analytical insights in the EU studies. These two bodies of literature will be briefly discussed below, and subsequently an organizing perspective for this paper will be presented.

Insights from comparative politics

Given that this paper seeks to analyse the dimensions of political conflict in relation to the adoption of party regulation in the European Union, the first question that must be addressed concerns the extent to which we can identify a dominant trend in relation to regulating political parties in law. From an empirical point of view, there seem to be three clearly visible and obvious trends (van Biezen and Kopecky 2007; Lehmann 2003). First, the constitution in the majority of democratic states includes some rules on political parties. Second, it has become quite commonplace to finance political parties from public funds. Third, particular attention is paid to the rules on transparency in party funding. Scholars announce the overall convergence of funding patterns (Nassmacher 2009). However, among those countries that provide political parties with public subsidies, the variety of national provisions is quite large (see Appendix B for illustration), ranging from the rules on donations to the very principle of how large the state subsidies should be. Furthermore, legal provisions on political parties relate not only to party funding, but generally to all possible measures regulating parties in law: their status as legal persons, their activities, their internal organization and procedures, the rights of members, and many others. Overall, the extent or, to put it differently, the intensity of legal regulation (concerning, for example, the extent to which law regulates internal party organization) is often different. Conceptually, this variety is constrained by means of the models of regulating political parties, primarily based on the cross-national differences in political and legal cultures. The key explanatory factor is the vision of a political party and its role within society. Here countries differ, and this results in the differences in national laws regulating political parties. This variety can be reduced to two models: the prescription and the permission model (for a review see Janda 2005). The first imposes very little on parties, assuming that how they organize, what their programme is should be left to the parties and their members. The prescription model, on the other hand, imposes on parties many more rules stipulated in a more detailed way, especially regarding their internal organization, for example, the selection of candidates or the rights of the members.

Insights from EU studies

To simplify the matter in question, in most cases party law in national states is adopted by parties themselves while acting in parliament, subject to review by the Constitutional Court (Janda 2005). However, in the EU we need to approach this problem in the special, very complex

circumstances of EU legislative politics (Hix 2005, Peterson et al. 2008). The most important factor to note is that there are many more political actors to analyse: MSs, the European Commission and the European Parliament. However, contrary to the situation in national political systems, Europarties do not have much control over the final law that governs them, because the link between extra- and parliamentary parties at EU level in any sense is not comparable to that in national party politics (Hix and Lord 1997). In other words, party law is not adopted by the (Euro)parties themselves.

Moving now to the patterns of political conflict in the EU (for a review see Steenbergen & Marks 2004), for many years the standard explanation was based on the so-called sovereignty-integration dimension, in which the opposition or acceptance of further political integration was a key source of political conflict. In the 1990s, some other aspects were added to this first dimension, in particular, the left-right conflict. From comparative politics literature we know that it is the size of the party, rather than its ideological profile, that explains the conflict over the adoption of political financing rules (Scarrow 2004). On the other hand, from the literature on EU political parties we learn that the whole idea of EU political parties and their strengthening means a step towards further political integration. For this reason, it seems that the sovereignty-integration dimension will be a key explanatory factor of the patterns of political conflict over the adoption of political financing law in the EU.

When we now try to think about the mechanism of this conflict, the first precondition for it is that political actors will indeed have different preferences. Based on the comparative politics literature reviewed above, it is clear that MSs differ between themselves in how they regulate (if they do) parties in law. However, the fact that they differ is not sufficient. At the same time MSs and other political actors at the EU level would need to transfer their national preferences to the discussion on party financing at the EU level.

This example touches a more general question whether political actors use their own national experiences in formulating proposals for legislative solutions at the EU level. From a theoretical point of view, an affirmative answer to such question is quite obvious in the historical and sociological versions of new institutionalism. These two bodies of literature make a direct claim concerning preference formation (see Hall & Taylor 1996; Peters 1999). Without going into details, the question the sociological institutionalists focus on is about the sources from which institutional creators took their ideas to create a new institution. The hypothesis states

that they 'borrow' those ideas from the existing world of institutional templates and models, a mechanism that is called institutional borrowing. Its equivalent is also present in the theory of constitutionalism as constitutional borrowing, in which states 'borrow' constitutional and legislative solutions from one another (Osiatynski 2003). And if this borrowing mechanism indeed takes place at the EU level too, which party tradition (or some combinations of traditions) prevails?

However, going more deeply into the problem would require asking whether the differences exist not only between the MSs, but also within them. Some prominent scholars argue that domestic conflict may be a key to explaining why some governments support and other oppose integration (Moravcsik 1998). In our case, we must pose a question regarding the extent to which the distinct national traditions and models on party regulation are shared by political forces in a given MS. In this paper, this can be tested by analysing whether the political parties and individual politicians from the same country will have similar ideas relating to the mode of financing of EU political parties and the specific legislative solutions.

Integrating insight from comparative politics and EU studies

The analysis so far allows us to identify two major dimensions of conflict in the process of regulating parties in law at the EU level. The first relates to the wider problem of the future of political integration in Europe. The very idea of strengthening Europarties has always been associated with the advancement of political integration in the direction of a 'federal Europe'. Needless to say, adopting a system of public financing of the Europarties will make them stronger. That is why the views in favour of EU integration are expected to be linked to the very aim and nature of party regulation and so a conflict on the European integration scale (sovereignty-integration) is very likely. For example, Eurosceptics are expected to be against any form of legal recognition and public financing of EU political parties, because that will mean for them a step towards a federal Europe. In other words, it is not possible to detach the discussion on the nature of party regulation in the EU from the very character, goals and activities of Europarties. Hence the first hypothesis: *the conflict over the strengthening of Europarties through the adoption of the party financing regulation will be based on views toward the present and future of European integration.*

On the other hand, the fact that the subject matter of this conflict is the regulation of political parties in law suggests a second dimension around the prescriptive and permissive models of regulating political parties or, in

the most detailed account, between specific legislative solutions. For this to be possible, we must assume that these different national traditions will be transferred to the EU level, thus becoming a source of political conflict. For example, given the variety of national legislative solutions concerning the regulation of donations, we would expect that this aspect of political financing will be aired in the discussions on party financing at the EU level, possibly becoming a source of political conflict. Hence the second hypothesis: *the proposals concerning the legal regulation of political parties at EU level will have their source in and will be borrowed from national experiences (the borrowing hypothesis).*

The problem with these hypotheses is that they (and two dimensions of political conflict linked to them) may be intertwined. However, it seems that we may expect that the first dimension will be more visible as far as the goal of the whole party regulation is concerned (whether to regulate parties in law in the first place), whereas the second will be more important with regard to specific legislative solutions, e.g. donations, reporting, transparency, etc.

Introducing the process of adoption of the political financing regulation at the EU level

Following their creation in the 1970s, Europarties were neither recognized by law nor subsidized directly by the then European Economic Community. Their practical functioning was based on the material, personal and financial contributions of either their political groups in the EP or their member parties. In the early 1990s, the three largest Europarties joined forces to lobby for their formal legal recognition, and the process leading to the adoption of laws governing European political parties started. It is useful to note that it can be divided into two distinct periods.

In the first period (after the Maastricht and up to the Nice inter-governmental conference, 1990-2001), the matter on the agenda was whether to constitutionalize European political parties. In practical terms, the question was whether to insert a reference to the European political parties in the basic EU constitutional document (Treaty establishing European Communities, hereafter TEC), and, if yes, what wording to use. This story seems to be rather well described in the existing studies (Johansson & Raunio 2005, Day & Shaw 2005). After intense lobbying by the Europarties and the European Parliament, and with the support of some heads of MSs, the Maastricht intergovernmental conference

(1990-91) took a decision to insert a special Treaty article devoted to Europarties (art. 138a, later renumbered as art. 191, and now art. 10 (4) of the Treaty on the European Union). In this reference, the Treaty attributes an important role to Europarties in “forming a European awareness and expressing the political will of the citizens of the Union”. However, the vague formulation of this article came to be understood only as a symbolic reference, rather than a legal basis for further, more specific laws (Bieber 1999). Since that time, even though various amendments to this unclear wording have been proposed, the very idea and concept of European political parties divided the MSs, and for a long time they could not reach agreement on whether and how to proceed (see below for details). However, the key incentive came from the Special Report of the European Court of Auditors (2000), which considered the then existing practice of financing Europarties from the EP political groups’ budgets to be inadmissible, since the funds allocated to political groups could not be used to finance any extra-parliamentary activities. This stimulus led to the amendment of the above-mentioned art. 191 of the Treaty so that the Council, acting through the co-decision procedure with the Parliament as co-legislator, was obliged to lay down the regulations governing political parties at European level, and in particular the rules regarding their funding.

In order to satisfy the concerns of some MSs, however, declaration no. 11, a constitutive element of the Treaty of Nice of 2001, stated, *inter alia*, that

The provisions of Article 191 do not imply any transfer of powers 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 budget of the European Communities may not be used to fund, either directly or indirectly, political parties at national level.

This declaration and its content explain the main lines of divisions: a threat of a further transfer of political powers to the European Union and the risk of Europarties’ interference in national politics.

Once the decision to constitutionalize Europarties was finally taken, the debate moved to some specific concerns over the financing regulation, and the second period began. In this period, the divisions between MSs had less to do with their approaches towards European integration in general – in this context whether to constitutionalize Europarties – but

more to do with how to do it: in other words, how to construct a special act devoted to their legal status, financing and potentially their other activities. This is the precise topic of the next paragraph.

The legislative work on the status and financing of European political parties

The conflict that arose with reference to the subsequent legislative proposals had mainly to do with three areas. First, it is often argued that the criteria relating to the allocation system are primarily responsible for the eventual benefits to the existing parties (Pierre et al. 2000). Likewise, at the EU level the first major source of conflict concerned the fixing of the minimum number of MSs a Europarty operates in so that it qualifies to receive EU funding. In other words, in order to be recognized and registered as a Europarty, should it have members (national political parties) from two, five or even more EU Member states? In this paper I will refer to this condition as the representativeness criterion. The second area of conflict related to the question of party sponsorship and donations and, more precisely, what type of donations should be banned. Finally, there was a major difference regarding the extent to which a European law should prescribe party organization and impose on parties the need to respect EU democratic principles and fundamental rights. It does not mean, however, that all the specific legislative solutions were contested. For example, from the beginning agreement was reached that special attention should be given to the transparency of party financing and that there must be a balance between the financing of the Europarties by the EU and their own resources.

Early legislative proposals

The first concrete proposals regarding how the future European party law should be designed saw the light of day as early as in 1996, when the EP adopted the Report on the constitutional status of the European political parties (European Parliament 1996). This report, drafted by a PES Group Member Dimitris Tsatsos, and warmly received by large Europarties, set the agenda and remained a point of reference for all subsequent proposals (see below). The first condition for recognition was that a Europarty had to unite national political parties from at least 1/3 of the MSs and be

active at EU level, that is, participate in European elections and create or join a political group in the EP, among other tasks.

The report further formulated three conditions relating to party organization. The first of them imposed a formal obligation to adopt and make available statutes and a party programme. The second was to ensure that the party “be more, in terms of goals and organization, than a mere electioneering organization or an organization that merely supports a political group and parliamentary work”. The third required a party to be organized “in a way that is likely to reflect the political will of citizens of the Union” based on a democratic internal mode of work, since “the internal structure of European political parties must comply with their constitutional mission”.

Prior to the Nice Treaty (2001), due to the lack of a clear legal basis the Commission was reluctant to initiate procedures proposed by the Tsatsos report, and only after the report of the Court of Auditors quoted above, did the Commission present its draft regulation (European Parliament 2001b). As Commissioner Schreyer explained during a debate in the EP

When defining European parties we wanted to leave room for manoeuvre and make it possible for the concept to evolve. At the same time, however, we wanted to put in place minimum democratic standards and minimum requirements for European representativeness and guarantee a maximum degree of transparency in respect of financing. On the definition of European parties, allow me to say quite clearly that European parties in no way have to toe a particular European political line, but the values of democracy, the rule of law and respect for fundamental rights must be respected (European Parliament 2001b).

Overall, the Commission’s 2001 proposal was more modest in setting the conditions than was the Tsatsos report. Furthermore, the project was less comprehensive, and the Commission refrained from touching such matters as mandatory disclosure of all revenue (e.g. members’ contributions or donations) or the possibility of the Europarties acquiring legal personality. Most importantly, however, in practice it continued the representativeness criterion proposed by the Tsatos report, based on two alternative ways of applying for funding. A Europarty had to be represented by either MEPs in the EP, and/or members of the national or regional parliaments, in all cases coming from at least five MSs; or a Europarty or its member parties had to have received at least five per cent of the votes cast in the

last EP election in at least five MSs. Neither the Tsatsos report nor the Commission's 2001 draft project devoted any attention to the question of banned donations, although the Commission's project stated that the control and supervision of expenses were to be carried out by means of an independent audit, which would present its findings to the EP and to the European Court of Auditors.

Responding to the Commission's project in May 2001, the EP, in the report drafted by a German EPP Member Ursula Schleicher, tabled some amendments aimed at securing greater transparency of Europarty's finances, especially, banning anonymous donations and those from public sector companies (European Parliament 2001c). It also wanted to rule out the possibility of creating Europarties that would be only a cover for obtaining funding, but not active in practice. It therefore proposed that apart from the statute, the political programme was also to be registered, and that funding was granted only to "established alliances of political parties". Overall, the early proposals reflected or oscillated around the prescription model.

The debate in the Council

Although the Commission agreed to the vast majority of the Parliament's amendments, the Council could not reach agreement. It seems that there was a clash of different national visions of how to regulate political parties. In general, Denmark, the UK and Sweden expressed general scrutiny reservations towards the entire proposal. In this way, they proposed deleting the condition that a Europarty shall respect fundamental democratic principles and EU fundamental rights, which most other countries opposed (Council of the European Union 2001a).

Regarding the threshold for financing (1/3, at that time five EU MSs), most EU countries considered it too rigorous and the Belgian EU presidency proposed lowering it to 1/4. However, the UK, Sweden and Austria demanded it be lowered even further, to just two MSs. At that time, pressed by coalition partners from the Freedom Party of Austria (FPÖ), the Austrian delegation to the Council wanted to ensure that smaller party families would not be excluded from the possibility of registering a Europarty because of such high representativeness criteria (Day & Shaw 2005). The most radical position was presented by the Danes who wanted to resign completely from any representative criteria, requiring only that a Europarty has "established or intend to establish or join a political group

in the European Parliament” (see below) (Council of the European Union 2001a). Finally, concerning donations and party sponsorship, the Belgian EU presidency proposed the prohibition of donations over a certain threshold (to be decided) from any legal or natural person. However, the MSs were divided both relating to the principle of this proposal and on the level of any threshold (Council of the European Union 2001c). The most visible conflict arose between France and Germany. In this way, when the Germans wanted to increase the amount of admissible party donations, the French were proposing to limit them or make the procedure more rigorous (Council of the European Union 2001b). How can it be accounted for? The French tradition of regulating political parties largely differs from the German one. One could multiply the differences, but from various datasets (see Appendix B) it becomes clear that in France, contrary to Germany, there is a ceiling on contributions to political parties, a ban on corporate donation, a ban on donations from government contractors and a ban on trade union donations, among others. In short, in France the matter of party sponsorship is treated much more strictly. In this way, France wanted to apply a similar model also in the case of the European legislation, which led to the conflict with a concurrent German model.

Taken together, these three dimensions of conflict led to a failure of the draft regulation. On the one hand, Denmark, the UK and Sweden were not ready to compromise, but on the other hand, the Europarties and their allies did not want to adopt the law at any price. In a letter to the Council dated 26 October 2001 they objected to lowering the representative criterion below 1/3, which they found to be an absolute minimum assuring that only truly transnational Europarties received funding (European Political Parties 2001).

The future discussion was strongly influenced by the fact that the amendments to the Treaty on the European Communities made by the Nice Treaty (which came in force on 1 February 2003) gave the opportunity of applying a different legal basis for the adoption of secondary laws governing Europarties, providing for the co-decision procedure, with the Council deciding by Qualified Majority Voting rather than unanimously, as was the case before.

The Commission's 2003 proposal

In a new attempt, the Commission drew conclusions from the failure of the previous draft, and this time proposed much more pragmatic solutions

(European Commission 2003a). The aim was to adopt a regulation devoted only to Europarties' financing and to lay down a minimum of rules acceptable to all MSs devised in response to reservations expressed during previous discussions in the Council. Most importantly, the very definition of the term 'European political party' was extended. In the newest version, not only would it be an "alliance of political parties" (as in all previous drafts) but also "political party", that is, "an association of citizens pursuing political objectives, and either recognised by or established in accordance with, the legal order of at least one Member State". To register its statute, such a European political party would have to be present in at least three MSs. On behalf of the Commission, Commissioner Loyola de Palacio explained that

Our basic proposal has sought to avoid political requirements that are too restrictive for European political parties for two main reasons: firstly, we want an open and plural system in which all shades of opinion can be represented in the European debate; secondly, if things were done otherwise, the debate in Council and in Parliament would be drawn out unnecessarily, perhaps even beyond the 2004 European elections (European Parliament 2003a).

In the Council, again the major line of conflict concerned the numerical conditions necessary to register a Europarty. In the first compromise text, the previous condition of 1/3 of the MSs was revived. However, the Italian delegation opposed this in writing, demanding that the threshold of three MSs envisaged at the end of the 2001 negotiations be reintroduced. In response, the next compromise proposal was to set this condition at at least 1/5 of the MSs, and in the end 1/4 (Council of the European Union 2003c).

During its part session on 19 June 2003, the EP gave its opinion at first reading and adopted a set of amendments which corresponded to those agreed by the Council (see below). Subsequently, on 5 September 2003, the Council accepted all of the EP's amendments and adopted the Regulation, with Italy, Denmark and Austria voting against, due to the disagreement described above. The votes of these countries (17 together) were not sufficient to block the adoption of this Regulation (they would have needed at least 25 votes). In order to have a comparative view of how conflictive this process was, the key point is to observe that between 1994 and 1998 79 per cent of decisions in the Council were taken by unanimous vote, and that three or more MSs voted against a proposal in

only 2 per cent of cases (Mattila 2004). Between 1998 and 2004, in the General Affairs Councils, Denmark, Italy and Austria voted against only once, precisely in the case of Regulation 2004/2003. It therefore proves that the entire matter of regulating political parties led to fierce conflict and the inability to find a compromise between all the MSs.

A very important point to make is why the UK withdrew its previous opposition to this Regulation. Officially, the United Kingdom made its agreement on further statutes on political parties conditional on following the declaration attached to the Treaty of Nice, namely that Europarties will not interfere in national politics (MacShane 2003). Looking however from the informal point of view, we should remember that at that time the Party of European Socialists (PES) was led by Robin Cook, former UK Foreign Minister. According to two senior politicians in the PES (interviews: 2007), Robin Cook asked his successor in office, Jack Straw, to do him a personal favour so that the UK supported this regulation and Straw did so. This is quite an interesting example of Europarties' lobbying of governments.

An interesting case concerns Italy. In 2001, under the left wing government of Giuliano Amato, it did not officially voice any reservations concerning the representativeness criterion. However, Italy did so in 2003, with a new government of the centre-right with Berlusconi's *Forza Italia* as the largest single party, but with two further coalition partners, the National Alliance and the Northern League, holding rather reserved attitudes towards European political integration and not being present in transnational party activities. Day and Shaw (2003) believe that their opposition was behind Italy's proposals to limit as far as possible the numerical conditions for the recognition of Europarties. Finally, the case of Denmark can be explained by her traditionally very reserved stance towards the tightening of EU political integration, but also bearing in mind that in Denmark practically speaking there is no party law, and only parliamentary parties receive funding (Council of Europe 2004). The notion of political party in Denmark strongly emphasizes its participatory character and its private nature. Such comments are very commonly voiced by all Danish MEPs who participated in the debates (see below), and from the reports of the debates in the Council it became clear that they also stood behind the attitude of the Danish government on this matter. In most situations, it acted against any detailed regulation concerning parties' legal personality, against the need to safeguard EU democratic principles and fundamental rights, as well as, contrary to the text of the proposals, arguing for the need to share the subsidies between Europarties

on a more proportional basis, rather than take into account mostly the number of MEPs as the pro-rata basis for the division of funds. Their vision of Europarties strongly emphasized that they should be associations of citizens, rather than federations of political parties, that they should not be limited in their right to set up their political programme or internal organization, and, finally, that the criterion of transnational representatives should be totally removed (Council of the European Union 2001a, 2001c, 2003a, 2003b). Most of the Danish amendments were rejected; therefore, the Danish delegation finally voted against this Regulation.

The role of the European Commission

While the European Commission is perceived as a non-partisan representative of the European interest, this does not mean that it is left out of political, partisan influence. Its role is particularly important given that it has the sole right of legislative initiative, and the way it formulates legislative proposals clearly places it on one or the other side of the political spectrum.

As shown before, the Commission during the debates in the EP always exhibited a rather positive approach towards the introduction of EU subsidies for Europarties, though this does not mean that it always fully supported the Parliament's view. For example, some politicians of Europarties (EPP and PES senior officials, interviews: 2006) complained that the Commission could have pressed further and proposed to prepare a fully-fledged statute of European political parties. They mean that such statute should regulate not only the questions of party financing, but all other aspects of their legal status (e.g. legal personality). However, many times the Commission representatives (as Loyola de Palacio quoted above) argued that their aim was to offer flexibility to allow different concepts, definitions and status for European political parties in each MS, and at the same time to ensure no oligarchy or prevention of new parties entering the system.

Although normally the Commission tries to exhibit a united stance, this time internal divisions between the commissioners came to light. Two British commissioners, Chris Patten and Neil Kinnock, were reported as standing against the proposals since the college of commissioners did not agree to their demands to lower the representativeness criteria (Fletcher 2001). The British Conservative party strongly opposed the proposal for public financing of European political parties, both as a matter of principle (that any party should not be financed from public funds), but also in opposition to a scheme perceived as privileging pro-European

parties, what they called ‘fund for federalism’ (Baldwin 2001). Most importantly, however, the British Tories, contrary to two other major British parties, at the time were not members of any European political party, so the representativeness criteria would exclude them from any funding. The newspapers noted that sources close to Chris Patten said he did not believe that the Commission’s intention was to exclude the Tories for political reasons, but objected because it might look that way. Neil Kinnock objected for “reasons of democracy and political common sense” (Fletcher 2001). Overall, the former Secretary General of the Party of European Socialists, Anthony Beumer (interview: 2007), believes that the two British Commissioners, and especially Neil Kinnock, questioned this proposal based on their national tradition where the parties traditionally are not publicly funded.

The debates in the European Parliament

The European Parliament (and concretely its four biggest political groups) always stood as the staunch supporter of the strengthening of Europarties that it associated with the idea of the tightening of EU political integration. Full support for the idea has always been expressed by the Group of the European People’s Party (EPP) without the British Conservatives however, the PES Group (now S&D Group), the majority of the Group of the European Liberal, Democrats and Reformers (ELDR, now ALDE), and the majority of the Group of the Greens (Greens/EFA). The opponents were mainly found in the Confederal Group of the European United Left – Nordic Green Left (GUE/NGL), the Group of Europe of Democracy and Diversity (EDD, now Europe of Freedom and Democracy), the Union for Europe of the Nations Group (UEN, now transformed into European Conservatives and Reformists Group) and the majority of Independent Members (NI) (European Parliament, 1996, 2000a, 2003a). It is clear then that the supporters always had a large majority, and in the voting on the adoption of the Regulation 345 MEPs voted in favour, with 102 against and 34 abstaining. The left-right divide was not predictive of voting patterns, and the MEPs’ vote choice was based on their support of or opposition to further EU political integration (Ringe 2010).

The outcome of this vote is not surprising. Indeed, the commonplace argument advanced in the literature on the voting patterns in the EP is to claim that MEPs of the PES (now S&D), the EPP and the ELDR (now ALDE) have indistinguishable attitudes in favour of tightening political integration against the small groups such as the EDD (Thomassen et al.

2004). However, the crucial point here is that an important part of their pro-European attitudes is precisely the idea of European political parties. One of the reasons why the three largest political families created their EU-level party federations in mid-70s was their belief that the existence of Europarties will push political integration forward. From this point of view, support for the Regulation strengthening Europarties was not just a matter of dispute between the pro-European and anti-European parties, but also between the oldest and largest Europarties (strongly pro-European) and those MEPs who were critical of the idea of Europarties precisely due to their Euroscepticism. So while our first hypothesis is confirmed, it cannot be explained without making a point relating to the size of the parties. I will return to this issue in the last section of this paper.

However, was this debate only a matter of dispute between the advocates of European integration and their opponents or did it also concern the general attitude towards party financing? In the light of above analysis, we know that the question of donations and their limits was one of the most divisive issues. From an analysis carried out by Ringe we learn that MEPs from MSs that specify ceilings on party donations were slightly more likely to support the Regulation, as it contains the provisions stipulating such ceiling (Ringe 2010). This finding would thus be one of the arguments in favour of the borrowing hypothesis. Moving to the qualitative analysis concerning the type of arguments used, individual MEPs many times referred to their national experiences. For example, a Danish MEP from the ELDR protested against the adoption of the Regulation due to his total opposition to the whole idea of financing political parties from “citizens’ purses” – in Denmark, as explained, the law does not regulate the matter of financing political parties, and only political groups in the parliament are subsidized. Many MEPs, especially the regionalists from Greens/EFA and the communists from GUE/NGL criticized the general idea of a political party as a transmission belt between the citizens and the state, in a sense referring to the end-of-the-parties thesis. As noted above, based on their national experience the British Conservatives disapprove of the idea of public financing of political parties in general, and of public financing of European political parties accordingly. It could then be summarized that the general debate in the EP was held in relation not only to the proposed Regulation, but also to political parties in general.

On another level of discussion, the project of strengthening political parties at EU level has always been regarded as an idea of the supporters of tightening EU integration. As Independent Belgian MEP Vanhecke observed, it has always been a “project of people who are hoping to create

the European federal superstate” (European Parliament 2000a). Although this statement may be a bit exaggerated, it is true that the four biggest groups (EPP, PES, ELDR and the majority of the Greens) are known for their ardent integrationist views and for their warm support for the idea of European political parties. Furthermore, they have had the longest and most fruitful experience of transnational cooperation in the EU (Hix and Lord 1997). They would benefit from EU funding immediately, which might have been seen by the smaller political groups as yet another factor institutionalizing the domination of the grand parties (Beumer 2007). Eurosceptic Jans Peter Bonde pointed out in this context that for regional parties it could be impossible to set up a federation of political parties due to the above high representativeness criteria – being unable to gather representatives from 1/3 or 1/4 of the MSs. Furthermore, he added that Eurosceptics might never want to set up such a political party at EU level as a matter of principle, but they do represent the views of EU citizens, and that is why their interests should be also taken into account (European Parliament, 2001a). He therefore considered that “it is clear that those who preach servility to the EU’s institutions are to be rewarded while those of us who still believe that constructive criticism is essential to real democracy are to be punished” (Agence Europe 19 June 2003). Finally, as has always been the case, very often the same personalities were active both in the political groups (as MEPs) and in Europarties. Most notably, Wilfred Martens in the 1994–1999 period used to be at the same time the president of the EPP outside the Parliament and the chairman of the EPP political group inside the Parliament. Therefore, the three biggest groups also had a direct personal motivation to advance the process of the institutionalization of Europarties.

Using extra parliamentary means, 25 MEPs, mostly from the French Front National, the Italian Lega Nord and the Belgian Vlaams Belang, applied to the Court of First Instance for the annulment of the Regulation on the grounds that it was unlawful, it infringed the principles of equality, transparency, political pluralism and subsidiarity. The Court, however, did not deal with their appeal relating to the content, but dismissed their claim as inadmissible, as the applicants did not have *locus standi* (Court of First Instance 2005).

Getting back to the analysis of the final vote over Regulation 2004/2003, if we analyse the relationship between voting pattern and nationality, we see that in the case of the MEPs from the MSs which rejected the Regulation in the Council, only the Danish MEPs almost unanimously voted against the Regulation, regardless of their group membership or

whether at that time their parties were in government or in opposition. Therefore, taking into account the arguments used by the Danes both in the Council negotiations and in the debates in the Parliament, it might be said that there is wide agreement in Denmark about the advantages of their model of party law and consequent dissatisfaction with other models, such as the one applied in the Regulation. However, in the case of Italy and Austria, two other countries which opposed the adoption of the Regulation, the Italian and Austrian MEPs nevertheless supported it. Out of 48 Italian MEPs, only 4 Independents elected from the Lista Emma Bonino and Clemente Mastella from the EPP-ED voted against. None of the Lega Nord MEPs took part in this vote, but their opposition to this regulation is indisputable, given the application they brought before the Court of First Instance (above). However, all four MEPs of the National Alliance voted in favour. Out of 16 Austrian MEPs voting on that day, only three voted against (two from the FPÖ and one independent).

The table below presents the results of the roll-call vote on the adoption of Regulation 2004/2003 categorized by nationality. It reveals that the

Table 1. The results of the roll-call vote on the adoption of the Regulation 2004/2003 divided by nationality

MS	Yes	No	Abstentions	Agreement Index
Luxembourg	3	0	0	1
Denmark	0	10	1	0.95
Spain	48	2	0	0.94
Ireland	10	1	0	0.86
Germany	79	4	4	0.86
Italy	43	4	1	0.84
Portugal	14	1	1	0.81
Netherlands	27	4	0	0.8
Austria	13	3	0	0.71
Belgium	14	5	1	0.55
Greece	15	3	4	0.52
Finland	7	5	1	0.3
UK	31	37	1	0.3
France	34	19	14	0.26
Sweden	5	4	6	0.1

*Source: own calculation based on the roll call vote in the EP (European Parliament 2003b)
The agreement index based on the method used by Hix, Noury and Roland (2007)*

three most divided group of MEPs were the British (the Labour Party in favour and the other British MEPs against), the French (9 MEPs of the EDD Group were against, as well as the French members of the UEN and the independents, mostly from the Front National) and the Swedish (without any observable partisan divisions).

Subsequent developments

The process of the strengthening of Europarties has not finished with the adoption of the Regulation. The Regulation was primarily devoted to financing issues, leaving a number of other aspects of the legal status of political parties intact. From the very beginning, it was planned that revisions would be needed after the first experiences with the practical application of the Regulation. The Europarties were not calling for an increase in the amount of subsidies, but to make the rules governing their activities and finances less cumbersome. For example, given the rules set up by the EU Financial Regulation, Europarties had to spend all the subsidies they received in one budgetary year, which made long-term financial planning difficult. Such issues were the subject of the 2007 amendment to the Regulation. Additionally, this amendment provided a basis for the establishment of European political foundations affiliated to Europarties, aiming to complement their work. However, the most pressing problems pointed out by the representatives of the Europarties related to their status as Non-Profit-Making Associations based on Belgian law. The Regulation indicates that Europarties may freely choose a MSs in which they wish to have their seat. Given that most Europarties have their seats in Brussels, they must abide by the Belgian law. Accordingly, the only possibility for Europarties to obtain legal personality is to establish themselves as non-profit-making associations. In the opinion of the representatives of the main Europarties (interviews: 2006, 2007, 2011), such status gives a bad impression to the citizens about the real nature of Europarties and, secondly, leads to the situation in which they struggle to function in two different but complementary legal orders: one set up by the Regulation and another one specified by Belgian law. In January 2011, the EP discussed further steps to strengthen the legal position of Europarties. The Giannakou report adopted in March 2011 (European Parliament 2011) emphasized the need for Europarties to respect “the highest standards of internal democracy”, inviting parties to involve ordinary citizens in their activities. It also proposed that EU parties should have the right to participate in national referendum campaigns linked to European integration. In June 2012, the European Commission was planning to present a draft of a

new Regulation, one of whose most important novelties will be precisely European legal status for the Europarties.

However, it seems that the most important development, which facilitated subsequent amendment in 2007, and the one that was discussed in 2002, is that despite their fears the great opponents of the original Regulation 2004/2003, coming primarily from Eurosceptic circles, established their own Europarties. Since the entry into force of the Regulation, six new extra parliamentary political parties have emerged at the European level. Among these was the European Alliance for Freedom, uniting the Eurosceptics from such parties as the United Kingdom Independent Party (UKIP) and the FPÖ. The European Christian Political Movement was established as the first Europarty without a political group in the EP. However, probably the most interesting development took place in 2012. In that year, for the first time even the extreme-right parties such as the French and Belgian Fronts Nationaux and the British National Party would receive EU subsidies for their newly created Europarty named the European Alliance of National Movements. The majority in the EP immediately reacted, demanding that EU law should exclude the possibility of funding racist and xenophobic parties, which was in turn received among the Eurosceptics as an attempt to remove them from the political scene (European Voice 2012). Overall, it seems that, although at a slightly lower temperature, future debates on the regulation of EU parties in law will combine very difficult and politicized questions (such as how to prevent the extreme right from benefiting from EU money) and some technical questions regarding the management and financial operations of Europarties.

Conclusions

To summarize the process of regulating European political parties in law, it is worth quoting Jean-Claude Juncker (quoted in Thomson & Hosli 2006:3), who described the EU's decision-making in the following way:

We decide on something, leave it lying around and wait and see what happens...If no one kicks up a fuss, because most people don't understand what has been decided, we continue step by step until there is no turning back.

It seems that the process described above fits very well into Juncker's description. Through persistent, incremental steps, the process of regulating EU parties in law was a success. The results of the above analysis thus offer a number of crucial points in understanding party politics in the European Union, both from the perspective of EU studies as well as from perspective of comparative politics.

Our main hypothesis has been confirmed positively: in the matter discussed in this paper, and perhaps beyond, politicians use their national experiences as a source of inspiration to devise legislative solutions at EU level. Such mechanism was visible in relation to the MSs as well as regarding Members of the European Parliament. The arguments used in the entire debate had their sources, first, in given beliefs about the future of EU integration (since the process of party institutionalization was perceived as a step towards a more integrated EU), and, second, concerning the model of regulating political parties. Such a mix of influences resulted in the initial set of preference concerning MSs, individual MEPs and political groups in the European Parliament.

The above analysis has also shown that the conflict over the adoption of party law in the European Parliament did not divide the left and the right. It was rather a conflict between the large and small parties. In the same way, many examples of political finance reform in the nation state, for example in Germany in 1980s, highlight very similar lines of conflict (Scarrow 2004). In the EU, however, it happens that the big Europarties are at the same time very pro-European, whereas the small ones (or those political forces that did not establish a Europarty) exhibit negative or at least reserved views towards European integration.

While attempting to determine from which national tradition of regulating political parties subsequent proposals derived, it still seems worth arguing that the first European Parliament report (the Tsatsos report) reflected the prescriptive model, particularly by stipulating the conditions for party organization, the adoption and publication of their statutes and programmes, and in a practical aspect – the need to adopt a democratic programme and democratic mode of functioning. The Leinen and Dimitrakopolous report seems to operate in the same tradition, due to its emphasis on the procedure concerning loss of the status of European political party in cases where a party does not respect “democratic principles and fundamental rights”. Those arguments were also present in the Commission's argument (European Parliament 2001c).

However, since the Tsatsos 1996 report, the subsequent drafts and proposals, looking for a wide compromise, softened their content,

abandoning the detailed regulation of party structure, elements of its programme, etc. The draft was becoming less and less strict, to arrive in the final version only as a model for financing political parties. It seems that it is rather difficult to judge which model – prescriptive or permissive – prevails, since in the Regulation itself we have to do mostly with the financing scheme. We have still to wait, then, for when it will be possible to speak of party law at the EU level.

Appendix A: Grants from the European Parliament to political parties at European level 2004-2012

Party	Seat	Year	Maximum grant awarded to Europarty (in EUR)	Maximum grant awarded to affiliated European political foundation (in EUR)
European People's Party	Belgium	2004	1 587 587	-
		2005	2 863 693	-
		2006	2 929 841	-
		2007	3 271 810	-
		2008	3 354 754	1 500 208
		2009	3 485 708	2 294 292
		2010	4 959 462	3 288 663
		2011	6 183 988	4 075 836
		2012	6 482 715	4 197 068
Party of European Socialists	Belgium	2004	1 257 000	-
		2005	2 489 175	-
		2006	2 580 000	-
		2007	2 994 603	-
		2008	3 027 647	1 208 700
		2009	3 100 000	1 950 000
		2010	3 395 323	2 150 000
		2011	4 117 825	2 714 798
		2012	4 323 313	2 802 702

Party	Seat	Year	Maximum grant awarded to Europarty (in EUR)	Maximum grant awarded to affiliated European political foundation (in EUR)
European Liberal Democrat and Reform Party	Belgium	2004	618 896	-
		2005	894 454	-
		2006	883 500	-
		2007	1 133 362	-
		2008	1 115 665	233 750
		2009	1 179 191	725 200
		2010	1 553 984	818 438
		2011	1 815 770	942 819
		2012	1 950 344	1 075 703
European Green Party	Belgium	2004	306 000	-
		2005	568 261	-
		2006	581 000	-
		2007	631 750	-
		2008	641 534	302 678
		2009	643 562	414 895
		2010	1 054 999	684 419
		2011	1 298 539	850 767
		2012	1 333 372	872 042
Alliance of European Conservatives and Reformists	Belgium	2010	1 016 275	659 651
		2011	1 140 478	747 210
		2012	1 285 913	841 397
Party of the European Left	Belgium	2004	210 275	-
		2005	365 868	-
		2006	518 626	-
		2007	526 148	-
		2008	536 685	156 400
		2009	562 405	362 575
		2010	708 080	475 542
		2011	846 936	554 889
		2012	835 049	550 265

Party	Seat	Year	Maximum grant awarded to Europarty (in EUR)	Maximum grant awarded to affiliated European political foundation (in EUR)
European Democratic Party	Belgium	2004	340 425	-
		2005	459 530	-
		2006	514 797	-
		2007	526 148	-
		2008	496 291	233 110
		2009	492 487	317 500
		2010	505 617	337 585
		2011	598 555	392 156
		2012	550 293	366 393
European Free Alliance	Belgium	2004	165 724	-
		2005	217 906	-
		2006	222 627	-
		2007	222 541	-
		2008	226 600	106 608
		2009	226 600	147 929
		2010	339 965	212 544
		2011	395 333	252 450
		2012	384 185	259 134
European Alliance for Freedom	Malta	2011	372 753	244 217
		2012	360 455	243 811
European Alliance of National Movements	France	2012	289 266	-
EUDemocrats	Denmark	2006	219 825	-
		2007	234 000	-
		2008	226 700	103 530
		2009	245 274	153 170
		2010	211 125	152 008
		2011	259 852	170 248
		2012	241 807	167 198

Party	Seat	Year	Maximum grant awarded to Europarty (in EUR)	Maximum grant awarded to affiliated European political foundation (in EUR)
European Christian Political Movement	Netherlands	2010	209 500	-
		2011	259 852	150 000
		2012	241 807	167 198

Source: European Parliament (2012). In the years 2004-2007, the grant from the European Parliament amounted to 75 per cent of each Europarty's total budget. From 2008 onwards, according to the amended Regulation 2004/2003, it has amounted to 85 per cent of each Europarty's total budget. The national member parties added the remaining 25 (and later 15) per cent of each Europarty's total budget. With regard to European political foundations, in 2008 the grants for operation from the EP covered the period between September and December 2008, whereas the preceding period was covered by the European Commission.

Appendix B: Funding of Political Parties in EU Member States

Matrix on Political Finance Laws (1)															
Country	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Austria	yes	no	no	no	no	no	no	no	no	no	no	no	no	yes	no
Belgium	yes	yes	no	yes	yes	yes	no	yes	yes	no	yes	yes	yes	yes	no
Denmark	no	yes	no	yes	no	no	no	no	no	no	no	yes	no	yes	no
Finland	yes	no	no	no	no	no	no	no	no	no	no	yes	no	yes	no
France	yes	yes	no	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
Germany	yes	yes	no	yes	no	yes	no	no	no	no	yes	yes	no	yes	yes
Greece	-	-	-	-	-	-	-	-	-	-	-	-	-	yes	-
Ireland	yes	yes	yes	yes	yes	yes	yes	no	no	no	yes	yes	no	yes	no
Italy	yes	yes	yes	yes	yes	yes	no	no	yes	no	no	yes	yes	yes	yes
Luxembourg	-	-	-	-	-	-	-	-	-	-	-	-	-	yes	-
Netherlands	yes	yes	no	yes	no	yes	no	no	no	no	yes	no	no	yes	no
Portugal	yes	yes	no	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Spain	yes	yes	no	yes	yes	yes	no	no	yes	no	yes	yes	Yes	yes	yes
Sweden	no	no	no	no	no	no	no	no	no	no	no	no	no	yes	no
UK	yes	yes	yes	yes	no	yes	yes	no	no	no	yes	yes	Yes	yes	no
Summary	yes: 11 no: 2	yes: 10 no: 3	yes: 3 no: 10	yes: 10 no: 3	yes: 6 no: 7	yes: 9 no: 4	yes: 4 no: 9	yes: 3 no: 10	yes: 5 no: 8	yes: 2 no: 11	yes: 8 no: 5	yes: 10 no: 3	yes: 6 no: 7	yes: 15 no: 0	yes: 4 no: 9
EU	yes	yes	no	yes	yes	yes	-	no	yes	no	yes	yes	-	yes	No

Source: Austin and Tjernström 2003, *Funding of Political Parties and Election Campaigns, IDEA International (for EU Member States) and author's own work (for the EU)*.

- Column 1: Is there a system of regulation for the financing of political parties?
- Column 2: Is there provision for disclosure of contributions to political parties?
- Column 3: Do donors have to disclose contributions made?
- Column 4: Do political parties have to disclose contributions received?
- Column 5: Is there a ceiling on contributions to political parties?
- Column 6: Is there a ban on any type of donation to political parties?
- Column 7: Is there a ban on foreign donations to political parties?
- Column 8: Is there a ban on corporate donations to political parties?
- Column 9: Is there a ban on donations from government contractors to political parties?
- Column 10: Is there a ban on trade union donations to political parties?
- Column 11: Is there a ban on anonymous donations to political parties?
- Column 12: Is there provision for public disclosure of expenditure by political parties?
- Column 13: Is there a ceiling on party election expenditure?
- Column 14: Do political parties receive direct public funding?
- Column 15: Are political parties entitled to special taxation status?

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