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From: General Secretariat of the Council
To: Permanent Representatives Committee

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 966/2012 as regards the financing of European political parties (**first reading**)
- *Approval of the final compromise text*

1. On 12 September 2012, the Commission adopted a proposal for a Regulation amending the statute and funding of European political parties and European political foundations.
2. On 29 November 2012, the Commission adopted a linked proposal amending the Financial Regulation as regards the financing of European political parties.
3. The main changes included in the above mentioned proposals related to the introduction of a new European legal status for European political parties, together with a more flexible financial instrument, called "contributions", to fund them.
4. The Court of Auditors delivered its opinion No 1/2013 on both proposals on 7 February 2013¹.

¹ OJ C 67, 7.03.2013, p.1.

5. As a result of a series of trilogues held between April 2013 and February 2014, the European Parliament and the Council reached an agreement on the Regulation amending the statute and funding of European political parties and European political foundations. It was endorsed by the Permanent Representatives Committee on 5 March 2014.
6. Following the agreement on the main Regulation, the proposal amending the Financial Regulation as regards the financing of European political parties was examined by the Budget Committee at several meetings during March 2014. On 25 March 2014, the Committee agreed by qualified majority on the compromise text as set out in the addendum to this note. The changes compared to the Commission's proposal recorded in document 17469/12 are indicated in **bold** and ~~striketrough~~.
7. Under these circumstances, the Permanent Representatives Committee is invited to:
 - approve the final compromise text set out in the addendum to this note;
 - confirm that the Presidency can indicate to the European Parliament that, should the European Parliament adopt its position at first reading in the exact form set out in the addendum to this note, the Council would approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position, subject to revision by the legal linguists of both institutions.

P2012/0336 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU, Euratom) No 966/2012 as regards the financing of European political parties

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the Court of Auditors¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Political parties at European level are important as a factor for integration within the Union.
- (2) Article 10 of the Treaty on European Union and Article 12(2) of the Charter of Fundamental Rights of the European Union state that political parties at European level contribute to forming a European political awareness and to expressing the political will of the citizens of the Union.

¹ OJ [...], [...], p. [...]. C 4, 8.1.2014, p.1

- (3) On 4 November 2003 the European Parliament and the Council adopted Regulation (EC) No 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding².
- (4) In its resolution of 6 April 2011 on the application of Regulation (EC) No 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding³ the European Parliament has, in light of experience gained, suggested a number of improvements on the financing of European political parties and European political foundations.
- (5) On [...] the European Parliament and the Council adopted Regulation (EU) No [...] on the statute and funding of European political parties and European political foundations⁴ repealing Regulation (EC) No 2004/2003. That Regulation lays down new rules for, inter alia, the funding of political parties and political foundations at European level, in particular with regard to funding conditions, mode and distribution of funding, donations and contributions, financing of campaigns for elections to the European Parliament, reasonable expenditure, prohibition of funding, accounts, **reporting and audit**, implementation and control, ~~penalties~~ **sanctions, cooperation between the Authority for European political parties and foundations, the authorising officer of the European Parliament and the Member States**, and transparency.
- (6) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union⁵ (hereinafter "the Financial Regulation") should include rules on the contributions by the European Parliament to the European political parties. Those rules should allow political parties at European level to have a broader degree of flexibility as regards the time limits to use those contributions, as the nature of their activities so require.

² OJ L 297, 15.11.2003, p.1.

³ 2010/2201 (INI).

⁴ OJ L...

⁵ OJ L 298, 26.10.2012, p. 1.

- (7) The system of financial support to European political parties through an operating grant as provided by Article 125(6) of the Financial Regulation is not suited to their needs, in particular the obligation to submit an annual work programme ~~and an estimated operating budget~~, a requirement that does not exist in the legislation of Member States. Therefore, the financial support given to European political parties should take the form of a specific contribution, to match the specific needs of the European political parties. **However, given that European political foundations continue to be submitted to the grant provisions of the Financial Regulation, the limited carry-over for 3 months currently foreseen by Article 125(6) of the Financial Regulation can apply to them.**
- (8) While financial support is awarded without an annual work programme ~~and estimated operating budget~~, European political parties should justify ex post the sound use of Union funds. In particular, the authorising officer should verify if the funds have been used to pay reimbursable expenditure as established in the call for contributions within the time limits laid down in this Regulation. Contributions to European political parties should be spent within ~~two~~ **the following** financial years ~~following the financial year it was awarded~~ **after its** awarded, after which, any unspent funds should be recovered by the authorising officer.
- (9) Union funds awarded to finance the operating costs of the European political parties should not be used for other purposes than those established in Regulation (EU) No [...], in particular to finance directly or indirectly other entities such as national political parties. The European political parties should use the contributions to pay a percentage of current and future expenditures and not expenditures or debts incurred before the submission of their applications for contributions.
- (10) The award of contributions should also be simplified and adapted to the specificities of the European political parties, in particular by the absence of selection criteria, the establishment of 100% pre-financing as a general rule or the possibility to use lump sums, flat-rate and unit cost financing.
- (11) The contributions from the Union budget should be reduced or terminated where the European political parties violate the obligations laid down in Regulation (EU) No [...].

- (12) ~~Penalties~~ **Sanctions** that are based both, on the Financial Regulation and Regulation (EU) No [...], ~~to be imposed by the same institution,~~ should be imposed in a coherent way and respecting the principle of *non bis in idem*. In accordance with Regulation (EU) No [...], administrative and/or financial ~~penalties~~ **sanctions** provided for by Financial Regulation are not to be imposed in one of the cases for which ~~penalties~~ **sanctions** have already been imposed on the basis of Regulation (EU) No [...].
- (13) The Financial Regulation should therefore be amended accordingly,

Article 125

General principles applicable to grants

[...]

6. If a **European** political ~~party at Union level~~ **foundation** realises a surplus of income over expenditure at the end of a financial year in which it received an operating grant, the part of that surplus corresponding to up to 25 % of the total income for that year may, by derogation from the no-profit principle laid down in paragraph 4, be carried over to the following year provided that it is used before the end of the first quarter of that following year.

~~For the purpose of verifying compliance with the no-profit principle, the own resources, in particular donations and membership fees, aggregated in the annual operations of a political party at Union level, which exceed 15 % of the eligible costs to be borne by the beneficiary, shall not be taken into account.~~

~~The second subparagraph shall not apply if the financial reserves of a political party at Union level exceed 100 % of its average annual income.~~

[...]

TITLE VIII
CONTRIBUTIONS TO EUROPEAN POLITICAL PARTIES

Article 204a

General provisions

1. For the purposes of this Regulation, European political parties shall mean the entities ~~constituted and~~ registered as such in accordance with Regulation (EU) No [...] of the European Parliament and of the Council.

2. Direct financial contributions from the budget may be awarded to European political parties in view of their contribution to forming European political awareness and to expressing the political will of the citizens of the Union **in accordance with the provisions of Regulation (EU) No [...] of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations.**

Article 204b

Principles

1. Contributions shall only be used to reimburse ~~a~~ **the percentage set out in Article 12(4) of Regulation (EU) No [...]** of the operating costs of European political parties directly linked to objectives of those parties, **as specified in Article 12(5) and Article 17 of Regulation (EU) No [...]**. Contributions shall not be used to grant directly or indirectly any personal advantage, in cash or in kind, to any individual member or staff of a European political party.
 - 1a. **Contributions may be used to reimburse expenditure relating to contracts concluded by European political parties, provided that there were no conflicts of interest when they were awarded.**

2. **Contributions shall not be used to grant directly or indirectly any personal advantage, in cash or in kind, to any individual member or staff of a European political party.** Contributions shall not be used to fund **directly or indirectly** activities of third parties, in particular national political parties or political foundations at European or national level, whether in the form of grants, donations, loans or any other similar agreements. **Contributions shall not be used for any of the purposes excluded by Article 17 and 18 of Regulation (EU) No [...].**
3. Contributions shall be subject to the principles of transparency and equal treatment, in accordance with the criteria laid down in Regulation (EU) No [...].
4. Contributions shall be awarded by the European Parliament on an annual basis and shall be published in accordance with Article 35(2) **and Regulation (EU) No [...].**
5. European political parties receiving a contribution shall not receive **directly or indirectly** other funds from the budget ~~for the same purposes~~. **In particular, donations from the budgets of political groups in the European Parliament shall be prohibited.** In any case, no cost item may be financed twice by the budget.

Article 204c

Budgetary aspects

Contributions shall be paid from the European Parliament section of the budget. **The appropriations set aside for independent external audit bodies or experts referred to in Article 19 of Regulation (EU) No [...] on the statute and funding of European political parties and European political foundations shall be charged directly to the budget of the European Parliament.**

Article 204d

Call for contributions

1. Contributions shall be awarded through a call for contributions published each year, at least on the website of the European Parliament **in accordance with Regulation (EU) No [...].**

2. A European political party may only be awarded one contribution per year.
3. A European political party may only receive a contribution if it applies for funding on the terms and conditions laid down in the call for contributions.
4. The call for contributions shall determine the eligibility criteria to be met by the applicant as well as the exclusion criteria.
5. The call for contributions shall determine, at least, the nature of the expenditure that may be reimbursed by the contribution.
6. **The call for contributions shall require an estimated budget.**

Article 204e

Award procedure

1. Applications for contribution shall be **duly** submitted **on time** in writing, including, where appropriate, in a secure electronic format.
2. Contributions may not be awarded to applicants who are, at the time of a contribution award procedure, in one of the situations referred to in Articles 106(1) and 107 and point (a) of Article 109(1) and those who are registered in the Central exclusion database referred to in Article 108.
3. Applicants must certify that they are not in one of the situations referred to in paragraph 2.
4. Contributions shall be awarded through a contribution agreement or decision as specified in the call for contributions.
5. The authorising officer may be assisted by a committee to evaluate and establish the award decision. The authorising officer shall specify, **with due regard to the principles of transparency and equal treatment**, the rules regarding the composition, appointment and functioning of such committee, and the rules to prevent any conflict of interests.

Article 204f
Evaluation procedure

1. Applications shall be selected on the basis of the award criteria set out in Regulation (EU) No [...] among applications respecting the eligibility and exclusion criteria.
2. The eligibility criteria shall determine the conditions for an applicant to be able to receive a contribution according to the rules laid down in Regulation (EU) No [...].
3. The decision of the authorising officer responsible on the applications shall state at least:
 - (a) the subject and the overall amount of the contribution;
 - (b) the name of the selected applicants and the amounts accepted;
 - (c) the names of any applicants rejected and the reasons for that rejection.
4. The authorising officer responsible shall inform applicants in writing of the decision on their application. If the contribution request is rejected or the amounts requested are not awarded in part or in full, the authorising officer shall give the reasons for either the rejection of the application or the non-award of the amounts requested, with reference in particular to the eligibility and award criteria referred to in paragraphs 1 and 2. **If the application is rejected, the authorising officer shall inform the applicant of the available means of administration and/or judicial redress as foreseen by Article 97 of this Regulation.**

Article 204g
Form of contributions

1. Contributions may take any of the following forms:
 - (a) reimbursement of a percentage of the **reimbursable** expenditures actually incurred;
 - (b) reimbursement on the basis of unit costs;
 - (c) lump sums;
 - (d) flat-rate financing;
 - (e) a combination of the forms referred to in points (a) to (d).
2. Only the expenditure which meets the criteria established in the calls for contributions and which has not been incurred prior to the date of submission of the application may be reimbursed.

Article 204h
Rules for contribution

1. Lump sums shall cover, in global terms, certain expenditures necessary for carrying out a specific activity of the European political party. Lump sums shall only be used in combination with other forms of contributions.
2. Unit cost shall cover all or certain specific categories of reimbursable expenditure which are clearly identified in advance by reference to an amount per unit.
3. Flat-rate financing shall cover specific categories of reimbursable expenditure which are clearly identified in advance by applying a percentage.

4. Where lump sums, flat-rate financing and unit costs are used, they shall be defined in the call for contributions **with their respective amounts and rates, where applicable. The call for contributions shall also contain a description of the methods for determining lump sums, unit costs or flat-rate financing, which shall be based on objective means such as statistical data, certified or auditable historical data of the European political parties or their usual cost accounting practices.** The contribution agreement or decision shall include provisions that allow verifying that the conditions for the award of lump sums, flat-rate financing or unit costs have been respected.

Article 204i

Pre-financing

The contributions shall be paid in the form of one pre-financing of 100%, except if in duly justified cases, the authorising officer decides otherwise.

Article 204j

Guarantees

The authorising officer responsible may, if he deems it appropriate and proportionate, on a case-by-case basis and subject to risk analysis, require the European political party to lodge a guarantee in advance in order to limit the financial risks related to the payment of pre-financing only when, in the light of his risk assessment, the political party is at an imminent risk of being in one of the situations described in points (a) and (d) of Article 106(1) or when **a decision of the Authority established under Article 5a of Regulation (EU) No [...] has been communicated to the European Parliament and the Council in accordance with Article 7(3)(a) of that Regulation** ~~has formally initiated an administrative procedure that could lead to a debarment and/or revocation of its contribution.~~

The provisions laid down in Article 134 **of this Regulation** on the pre-financing guarantee for grants shall apply *mutatis mutandis* to guarantees which may be required in the cases foreseen in the above paragraph to pre-financing payments made to European political parties.

Article 204k
Use of contributions

1. Contributions shall be spent in accordance with Article 204b.
2. Any part of the contribution not used within the financial year covered by this contribution shall be spent on any reimbursable expenditure incurred by 31 December of year $n+21$. The remaining part of the contribution that is not spent within the $n+21$ time limit shall be recovered in accordance with Chapter 5 of Part One.
3. European political parties shall respect the maximum co-financing rate ~~established~~ **laid down in Article 12(4) of Regulation (EU) No [...]**. Remaining amounts of the previous ~~two~~ years's contributions may not be used to finance the part which European political parties must provide from their own resources. **Contributions by third parties to joint events shall not be considered as part of the own resources of a European political party.**
4. European political parties shall first use the funds that have not been used within the financial year covered by the contribution before using the contributions awarded after that year.
5. Any interests yielded by the pre-financing payments shall be considered as part of the Union contribution.

Article 204l
Report on the use of the contributions

1. The European political party shall, in accordance with the conditions and time limits laid down in ~~the call for contributions~~ **Regulation (EU) No [...]**, submit to the authorising officer for approval a final report on the use of the contribution and its ~~accounts~~ **annual financial statements in accordance with Article 19(1) of Regulation (EU) No [...]**
2. The authorising officer shall draft his annual activity report referred to in Article 66(9) of **this Regulation** on the basis of the final report and accounts referred to in the first paragraph. He may use other supporting documents for the purposes of his report.

Article 204m
Payment of the balance

1. The amount of the contribution shall not become final until ~~after the authorising officer has accepted~~ **the approval of** the final report and accounts referred to in Article 204l **by the authorising officer**. Acceptance of the report and accounts shall be without prejudice to subsequent checks by the ~~European Parliament~~ **Authority established under Regulation (EU) No [...]**.
2. Any unspent amount of pre-financing shall not become final until it has been used by the European political party to pay reimbursable expenditures which meet the criteria defined in the call for contributions.
3. Where the European political party fails to comply with its obligations related to the use of contribution, the contributions shall be suspended, reduced or terminated after the European political party has been given the opportunity to present its observations.
4. The authorising officer shall verify before making the payment of the balance that the European political party is still registered in the Registry referred to in Article ~~65b~~ of Regulation (EU) No [...] and has not been the subject of any of the ~~penalties~~ **sanctions** provided for in Article 22 of that Regulation between the date of its application and the end of the financial year covered by the contribution.
5. Where the European political party is no longer registered in the Registry referred to in Article ~~65b~~ of Regulation (EU) No [...] or has been the subject of any of the ~~penalties~~ **sanctions** provided for in Article 22 of that Regulation, the authorising officer responsible may suspend, reduce or terminate the contribution and recover amounts unduly paid under the contribution agreement or decision, in proportion to the seriousness of the errors, irregularities, fraud or other breach of obligations related to the use of contribution, after the political party has been given the opportunity to present its observations.

Article 204n

Control and ~~penalties~~ sanctions

1. Each contribution agreement or decision shall provide expressly for the European Parliament, European Anti-Fraud Office and the Court of Auditors to exercise their powers of control, on documents and on the premises, over all European political parties, contractors and subcontractors who have received Union funds.
2. Administrative and financial ~~penalties~~ **sanctions** which are effective, proportionate and dissuasive may be imposed on applicants by the authorising officer, in accordance with Article 109 of this Regulation, ~~without prejudice to~~ **and with** Article 22(7) of Regulation (EU) No [...].
3. **Sanctions** ~~Penalties~~ referred to in paragraph 2 may also be imposed on European political parties which, at the moment of the submission of the application for contribution or after having received the contribution, have made false declarations in supplying the information requested by the authorising officer or fail to supply such information.

Article 204o

Record keeping

1. European political parties shall keep **all** records, **and** supporting documents, and other records pertinent to the contribution for five years following the submission of the **annual** final report and accounts referred to in Article 204l.
2. Records related to audits, appeals, litigation or the settlement of claims arising out of the use of the contribution shall be retained until the end of such audits, appeals, litigation or settlement of claims.

Article 204p

Selection of external audit bodies or experts

The independent external audit bodies or experts referred to in Article 19(3) of Regulation (EU) No [...] shall be selected through a public procurement procedure. The term of their contract shall be no longer than 5 years. After two consecutive terms, they shall be deemed to have conflicting interests which may negatively affect the performance of the audit.
