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Mrs. Maria da Assunção ESTEVES
Presidente da
Assembleia da República
Palácio de S. Bento
P – 1249-068 LISBOA

Dear President,

The Commission would like to thank the Assembleia da República for its Opinion on the proposal for a Regulation on the statute and funding of European political parties and foundations {COM(2012) 499_500 final}.

The Opinion concludes that the proposal complies with the principle of subsidiarity. However, it raises a number of questions which are worthy of further reflection and to which the Commission wishes to provide the following considerations.

Referring to Article 10 of the proposal¹, the Assembleia da República draws the attention of the Commission to the need for consistency between the Regulation and national laws, in order to prevent any possible conflicting rules. It expresses concerns in particular as regards the provisions on internal democracy and donations.

The Commission is fully aware of the need for consistency and has therefore invited Member States to identify and assess the relevant national laws that will apply to European political parties and foundations. Member States have also been invited to analyse the articulation between the proposed Regulation and national law and to identify areas where amendments to national legislation may be required. This analysis must necessarily be conducted in collaboration with each Member State and is still ongoing.

This analysis should in principle comprise the following aspects: each Member State should identify under which rules a European political party or foundation, wishing to establish itself in that Member State, would fall for matters related to their practical activities and not explicitly regulated by the proposed EU Regulation (e.g. labour and social law, taxation, accounting, etc.). This may be an existing, amended or new legal framework (in many Member States, existing regulatory frameworks for non-profit associations are likely to be suitable). Secondly, Member States should verify that the

¹ Article 10(2): "For matters not regulated by this Regulation or, where matters are partly regulated by it, for those aspects not covered by it, the European political party and the European political foundation shall be governed in the Member State in which it has its seat by those national laws applicable to the legal form referred to in the party or foundation statutes. Activities carried out by the European political party and the European political foundation in other Member States shall be governed by the relevant national laws of those Member States."

above legal framework as well as any other national legislation does not create incoherencies with regard to the specific rules imposed at EU level (this could for example reveal the need to clarify that European political parties and foundations are excluded from the national rules governing national political parties and foundations).

As regards internal party democracy, the intention of the Commission is to ensure that European political parties include rules in their statutes, so that they are made transparent for the general public, rather than imposing a series of prescriptive obligations. The Commission acknowledges that possible inconsistencies with national law would need to be corrected, should such inconsistencies be identified in the analysis mentioned above. This work is underway in the relevant working group of the Council of the European Union.

The Opinion also raises concerns as regards donations, claiming that the rules applicable to European political parties should be as close as possible to the national system. The Commission would first like to stress that European political parties and national political parties are and will remain very different actors under the constitutional and legal order of Member States. When proposing to raise the thresholds of authorised donations from 12 000 € to 25 000 € per donor and per year, the Commission has endeavoured to find the right balance between encouraging donations and private funding for European political parties and current practices in a number of Member States. It should be noted that the systems which exist at national level vary considerably from one Member State to another (there are no upper limits in some Member States, whilst in some others the maximum thresholds are much lower).

Last, the Commission takes note of the Assembleia's concerns as regards the European Parliament's role in verifying the conditions for registration and governance requirements. The Commission remains convinced that the European Parliament is naturally best placed to implement the Regulation and that it can do so in a transparent and objective manner. However, such implementing powers conferred on the European Parliament have recently been questioned by the Council Legal Service. This issue will be further examined in the context of the on-going work in Parliament and Council.

The Commission hopes that these clarifications have addressed the concerns expressed in the opinion of the Assembleia da República and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*