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NOTE

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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU, Euratom) No. 1141/2014 of the European Parliament and the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations – *Presidency debriefing on the outcome of the trilogue* – *Analysis of the final compromise text with a view to agreement*

Delegations will find attached the final compromise text concerning the above proposal as provisionally agreed during the informal trilogue of 16 January 2016.

ANNEX

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament

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 224 thereof,

Having regard to 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 European Economic and Social Committee[1],

~~Having regard to the opinion of~~ **After consulting** the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

[1] OJ C , , p. .
[2] OJ C , , p. .

Whereas:

(1) Regulation (EU, Euratom) No 1141/2014[3] established a specific European legal status for European political parties and European political foundations and provides for their funding from the general budget of the European Union, it also establishes an Authority for European political parties and European political foundations ("the Authority").

(2) In order to enable the Authority to fully fulfil its tasks, including the new ones foreseen in this Regulation, and to do so in an independent manner, it is necessary to staff it in a permanent way and to confer the powers of an appointing authority on the Director of the Authority.

(3) Recent events have demonstrated the potential risks to electoral processes and democracy that can arise from the unlawful use of personal data. It is therefore necessary to protect the integrity of the European democratic process by providing for financial sanctions in situations where European political parties and European political foundations take advantage of infringements of data protection rules with a view to influencing the outcome of elections to the European Parliament.

(4) To that end, a verification procedure should be established whereby the Authority must, in certain circumstances, ask the committee of independent eminent persons to assess whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on protection of personal data. Where ~~**the committee finds**~~**, in accordance with the verification procedure,** that **is found** to be the case, the Authority should impose sanctions in line with the effective, proportionate and dissuasive sanctioning system established by the Regulation (EU, Euratom) No 1141/2014.

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3 Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L317, 4.11.2014, p. 1).

(4a) When the Authority imposes a sanction on the European political party or foundation pursuant to the verification procedure, it should take due account of the ne bis in idem principle, whereby sanctions cannot be imposed twice for the same offence. The Authority should also ensure that the principle of legal certainty is respected and that the European political party or the European political foundation concerned has been given the opportunity to be heard.

(5) The new procedure should exist alongside the current procedures used for verification of compliance with registration conditions and in cases of manifest and serious breaches of the values on which the Union is founded. However, the time limits for verification of compliance with registration conditions and requirements set in Article 10 of Regulation (EU, Euratom) No 1141/2014 should not apply to the new procedure.

(6) Since the new procedure is triggered by a decision of a competent data protection supervisory authority, it should be possible for the European political party or European political foundation concerned to request that the sanction be reviewed if the decision of the supervisory authority is repealed or a remedy against that decision is successful, **provided that all national remedies have been exhausted**.

(7) In order to ensure that the 2019 elections to the European Parliament take place under strong democratic rules and in full respect of the European values of democracy, rule of law and respect of fundamental rights it is important that the proposed verification procedure enters into force in timely manner and is applicable as soon as possible. In order to achieve this the proposed amendments to Regulation (EU, Euratom) No 1141/2014 introduced by this Regulation should enter into force on a date of its publication in the *Official Journal of the European Union*.

(8) Regulation (EU, Euratom) No 1141/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU, Euratom) No 1141/2014 is amended as follows:

(1) Article 6(5) is replaced by the following:

'The Director of the Authority shall be assisted by staff, with respect to which he shall exercise the powers conferred by the Staff Regulations on the appointing authority and by the Conditions of Employment of Other Servants on the authority empowered to conclude a contract of employment of other servants ('the appointing authority powers')[4]. The Authority may make use in any areas of its work of other seconded national experts or other staff not employed by the Authority.

The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the Conditions of Employment of Other Servants shall apply to the staff of the Authority.'

(2) In Article 10(3) the following sentence is added at the end of the third subparagraph:

"That time limitation shall not apply with regard to the procedure set out in Article 10a.";

(3) the following Article 10a is inserted:

"Article 10a

Verification procedure related to infringements of rules on the protection of personal data

1. A European political party or a European political foundation shall not deliberately influence or attempt to influence the outcome of elections to the European Parliament by taking advantage of an infringement, by a natural or legal person, of the applicable rules on the protection of personal data.

[4] Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, (OJ P 045 14.6.1962, p. 1385)

2. If the Authority **is informed** ~~**becomes aware**~~ of a decision of a supervisory authority within the meaning of point 21 of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council[5] finding that a natural or legal person has infringed applicable rules on the protection of personal data and if it follows from that decision, or where there are otherwise reasonable grounds to believe, that the infringement is linked to political activities by a European political party or a European political foundation in the context of elections to the European Parliament, the Authority shall refer this matter to the committee of independent eminent persons established by Article 11. **The Authority may liaise with the national supervisory authority concerned, if necessary.**

3. The committee shall give an opinion as to whether the European political party or the European political foundation concerned has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of that infringement. The Authority shall request the opinion without undue delay and no later than 1 month after **being informed** ~~**having become aware**~~ of the decision of the supervisory authority. The committee shall deliver its opinion within a short, reasonable deadline set by the Authority.

4. **Having regard to the committee's opinion, the Authority shall decide, pursuant to Article 27(2)(a)(vii), whether to impose financial sanctions on the European political party or European political foundation concerned. The decision of the Authority shall be duly reasoned, in particular with regard to the committee's opinion, and shall be published expeditiously.**

The procedure set out in this Article is without prejudice to the procedure set in Article 10.";

(4) in Article 11(3), the second sentence of the first subparagraph is replaced by the following:

"When requested by the Authority, the committee shall give an opinion on whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on the protection of personal data. In

[5] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ L 119, 4.5. 2016, p. 1).

both cases the committee may request any relevant document and evidence from the Authority, the European Parliament, the European political party or European political foundation concerned, other political parties, political foundations or other stakeholders, and it may request to hear their representatives. In the case of opinions on whether a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on the protection of personal data, the supervisory authorities referred to in the Article 10(a) shall cooperate with the committee in accordance with applicable law."

(5) in Article 18(2), the words "and in point (a) (v) and (vi) of Article 27(2)" are replaced by the words" and in point (a) (v), (vi) and (vii) of Article 27(2)";

(6) Article 27 is amended as follows:

(a) in point (a) of paragraph (2), the following point (vii) is added:

"(vii) where, in accordance with **the verification procedure provided for in** Article 10a, ~~**the committee issues an opinion finding**~~ **it is established** that a European political party or a European political foundation has deliberately influenced or attempted to influence the outcome of elections to the European Parliament by taking advantage of an infringement of the applicable rules on the protection of personal data.";

(b) the following paragraph 7 is added:

"7.Where a decision of the **national** supervisory authority as referred to in Article 10a has been repealed or where a remedy against such decision has been successful, **provided that all national remedies have been exhausted**, the Authority shall review any sanction imposed pursuant to point (a)(vii) of paragraph 2 at the request of the European political party or European political foundation concerned."

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*