Does Power Trump Values?

The Influence of European Political Parties on their National Member Parties

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- European political parties (EuPPs) can sanction their member parties, up to suspension or exclusion. These measures are rarely used because they have little impact and generate costs for the respective EuPP, due to the loss of a member party and thus power.

- The power of EuPPs over their member parties is limited, because elections – including European elections – are conducted at the national level. However, the influence of EuPPs on their member parties would grow if they were able to compete for mandates with transnational lists and distribute political power.

- The effect of sanctions could be increased by linking EuPPs more closely to their affiliated political groups in the European Parliament (EP). If suspension from a EuPP also meant suspension from the affiliated political group, the EuPP's leverage would be considerably higher, because membership of one of the large political groups is essential for access to resources, important functions, and legislative roles.

- EuPPs should formalise the criteria for sanctions and make decision-making more objective and independent from political considerations. The nomination of standing rapporteurs could render decisions less arbitrary and provide necessary first-hand information.

Contents

Most research on the observance of the European Union's (EU) fundamental values as laid down in Article 2 of the Treaty on European Union (TEU) – namely human dignity, freedom, democracy, equality, the rule of law, and respect for human rights – focuses on the instruments that the EU primary law provides for the supranational EU institutions to sanction and incentivise member states' governments. As the vast majority of national parties – including those in government – are part of one of the currently twelve European political parties (EuPPs), these organisations could provide another avenue through which the European level can foster the compliance of member states with the EU's fundamental values.

After a short introduction on the evolution of EuPPs and their legal framework, this paper examines the extent to which EuPPs can exert control over their member parties to safeguard the EU's fundamental values. On the basis of two case studies – which explore the relationship between the European People's Party (EPP) and its Hungarian member party Fidesz, and the relationship between the Party of European Socialists (PES) and its Slovak member party SMER – we assess the instruments available to EuPPs and put forward recommendations to improve the situation.

1. Parties at the European Level: Still Comparable to Associations

1.1 The Evolution of Political Parties at the European Level

In systems of representative democracy, political parties play an essential role. As transmitters between the people and the legislative as well as executive branches of government, parties aggregate and articulate interests of a certain part of society and translate them into policy options. Furthermore, they recruit political leaders and educate the public, by increasing the political consciousness of citizens.

At the European level, national parties started to form European associations as early as 1973 with the Confederation of the Socialist Parties of the European Community, which in 1992 developed into the PES. In 1976, the EPP and the Federation of Liberal and Democratic Parties in Europe – the predecessor of the Alliance of Liberals and Democrats for Europe Party (ALDE) – were created. Ahead of the first direct elections to the EP in 1979, the green parties set up the Coordination of European Green and Radical Parties.

With the entry into force of the Treaty of Nice in 2003, European political parties were first recognised at the European level by introduction of Article 191 of the Treaty establishing the European Community (TEC) as »important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union«. The treaty also established a legal basis for their funding and governance. The Charter of Fundamental Rights of the EU – which was solemnly proclaimed in December 2001 and became legal value with the entry into force of the Treaty of Lisbon on 1 December 2009 – contains a similar provision Article 12 (2).

Through Regulation (EC) Nr. 2004 /2003, EuPPs could benefit from the Union budget for the first time. The Regulation was amended in 2007. In 2014, it was repealed and replaced by Regulation (EU, Euratom) No 1141/2014, which created a legal status for EuPPs at the European level. For the purpose of this study, a EuPP is defined in accordance with Article 2 (3) of that regulation as »political alliance which pursues political objectives and is registered with the Authority for European political parties and foundations«.

1.2 Recent Developments: Transnational Lists and Spitzenkandidaten

Despite the legal and financial improvements, EuPPs still have to be characterised as umbrella organisations rather than political parties in the traditional sense. EuPPs play an important role in the preparation of intergovernmental meetings. For example, ahead of Council and European Council meetings, the national governments' representatives of each EuPP co-ordinate their positions in leaders' meetings. However, as European elections are still conducted at the national level – with national election laws, national electoral lists, and predominantly national campaigns – EuPPs cannot compete for mandates and are thus neither able to fulfil their recruitment function, nor distribute power to their members.

Since 1998, the EP has undertaken several attempts to amend the Direct Elections Act of 1976 and to introduce

a European-wide constituency, which would allow EuPPs to set up so-called transnational lists and thus enable them to compete directly for a part of the EP's seats. So far, however, the member states' governments have not been able to agree on that innovation. The most recent initiative in this regard – the Leinen-Hübner proposal of 11 November 2015 for a reform of the European electoral law – was adopted by the Council and the EP in spring 2018, and for the first time since 1976 brought substantial improvements to the European rules governing the elections. The proposed transnational lists, however, did not get the unanimous backing by member states. Despite this drawback, the innovation is far from dead, as more and more national leaders support it. In their joint »Meseberg Declaration«, French president Emmanuel Macron and German Chancellor Angela Merkel envision the implementation of transnational lists in time for the 2024 European elections.

An important development for the evolution of EuPPs was the »Spitzenkandidaten« initiative ahead of the European elections in 2014. For the first time, all major EuPPs nominated lead candidates for the position of the President of the European Commission (EC), thus linking the European elections with the selection of the leader of the European executive. After an inter-institutional showdown between the European Council and the EP, the candidate of the most successful EuPP – EPP's Jean-Claude Juncker – indeed became EC President. The EuPPs thereby managed to expand their role without the necessity of legal changes. While this innovation led to a limited transnationalisation of the electoral campaigns, it cannot serve as a substitute for the possibility to compete for parliamentary mandates.

2. Case Studies: How to Deal with the Awkward Cousin?

This chapter examines how the two largest European political families – the EPP and the PES – acted in order to keep the troublemakers in their ranks in line, and how successful they were in their efforts. Following are the reasons for selecting these subjects for the case studies:

- The EPP and PES are among the oldest and most consolidated EuPPs. Their affiliated political groups form the two largest blocks in the EP.
- The two EuPPs are at the centre of the political spectrum with a dedicated pro-European course.
- Both parties share the EU's fundamental values and make direct reference to them in their statutes. Their observance should thus be expected from their member parties.

According to Article 3 of its statutes, the EPP will work »to achieve free and pluralistic democracy, for respect for human rights, fundamental freedoms and the rule of law on the basis of a common programme«. Likewise, Article 3.1 of the PES statutes states that it intends »to pursue international aims in respect of the principles on which the European Union is based, namely principles of freedom, equality, solidarity, democracy, respect of Human Rights and Fundamental Freedoms, and respect for the Rule of Law«.

The statutes of both parties provide a legal basis for sanctioning members. The EPP gives the power to decide on a suspension or exclusion to its Congress, whereas »it is not obliged to disclose its reasons« (EPP 2015: Article 9). With the PES, the party's Presidency can decide to suspend a member party (PES 2015: Article 11.4), while an exclusion must be decided by the Congress (ibid.: Article 11.6). According to Article 11.3 of the statutes, a member party can be suspended or excluded for »non respect of the statutes or the Standing orders« and/or »non-compliance with the criteria for membership«.

2.1 The European People's Party and the Hungarian Fidesz

The EPP has been widely criticised by political opponents and civil society organisations for not being tough enough with its Hungarian member party Fidesz. In this section, the actions undertaken by the EPP to defend the EU's fundamental values and influence Fidesz serves as a first case study.

In the 1990s, Fidesz – which was co-founded by the current Hungarian Prime Minister Viktor Orbán in 1988 – positioned itself as a liberal, anti-corruption, and anti-communist force, working for the integration of Hungary into the western system of alliances and organisations, notably the EU and NATO. During Orbán's first term as prime minister from 1998 to 2002, high hopes

were pinned on the then outspoken pro-European Fidesz government. The party joined the EPP in 2000 as an associate member and has remained a member since.

Yet, after Hungary's accession to the EU in 2004 and a landslide victory by Fidesz in the 2010 parliamentary elections, which won the party a two-thirds majority in the unicameral Hungarian parliament, Fidesz and Orbán showed another face. Since then, Orbán has adopted an increasingly nationalistic, anti-Islamic, and xenophobic rhetoric. Furthermore, the Orbán government extensively used its parliamentary supermajority to push a series of constitutional reforms and laws through parliament, presumably to consolidate its power and to diminish the opposition. The institutional balance was reshaped, considerably limiting the independence of the judiciary. The government also tightened its grip on the national media, while other measures targeted NGOs, civil society organisations, and institutes of higher education (FIDH 2016).

Despite these developments that – according to the EP report of May 2017 – »represent a clear risk of a serious breach of the values referred to in Article 2 of the TEU and warrant the launch of the Article 7(1) TEU procedure« (EP 2017), the EPP has not taken any sanctions against its member party. However, that does not mean that the party and its affiliated political group were idle. When the Commission raised concerns over the constitutional reforms in 2012, the EPP Group issued a statement in defence of Orbán, which recalled »that the Hungarian authorities have said that they are ready to meet the demands of the European Commission«, and that »Mr Orbán will prove to us that he also stands by these [European] principles and values« (EPP Group 2012). Over time, however, the criticism towards Fidesz also became louder within the EPP's ranks. Following the passing of restrictive laws on NGOs and universities in 2017, some Members of European Parliament (MEPs) from the EPP even went on record, asking for the exclusion of Fidesz from the conservative party family (King 2017). The EPP then summoned Orbán to a »reportedly heated, tense meeting«, in which »the possibility of suspending Fidesz membership in the conservative parliamentary group [was raised], if Mr Orbán does not amend the anti-CEU legislation and does not halt his anti-EU rhetoric« (Hungarian Free Press 2017). According to the EPP, the party's Presidency »asked Fidesz and the Hungarian authorities to take all necessary steps to comply with the Commission's request. Prime Minister Orbán has reassured the EPP that Hungary will act accordingly«. Reflecting a tougher stance on Orbán, the statement points out that »[t]he EPP has always used dialogue as the best way to communicate with its members and to overcome differences. […]«, but »[f]ollowing the Commission's assessment and the outcome of the EPP's exchange with the Hungarian civic society and representatives of the academic community, we have come to the conclusion that dialogue alone is not enough« (EPP 2017).

Indeed, the Fidesz government did take up some requests explicitly brought forward by the EPP – above all, the prolongation of the deadline to fulfil the new criteria under the higher education law. In principle, however, the disputed legislation targeting universities and NGOs remained in force. Consequently, on 7 December 2017 the European Commission launched the final stage of the infringement procedures against Hungary for both the higher education law and its legislation on NGOs, and referred the cases to the European Court of Justice (ECJ) (EC 2017a, EC 2017b).

Evidently, the Hungarian government did not fulfil »all necessary steps to comply with the Commission's request«, otherwise, the Commission would not have escalated the infringement procedures. Nevertheless, the EPP has not reacted further and not imposed any sanctions on Fidesz.

On 20 June 2018 – World Refugee Day – the newly elected Hungarian parliament, again dominated by Fidesz, passed the so-called Stop Soros law. The legislation prohibits NGOs in Hungary from supporting asylum seekers, which even includes the dissemination of information. While the Commission was quick to launch an infringement procedure, the Hungarian government's actions did not spark publicly voiced protest by the EPP.

On 12 September 2018, the European Parliament triggered Article 7 (1) of the TEU against Hungary – the so-called nuclear option, used when the EU's fundamental values have been breached by one of its Member States. This unprecedented decision opens the door for sanctions against the Hungarian government, including the suspension of its voting rights in the Council. While many MEPs from the EPP group voted in favour of the motion – at the time this study was finished – it remained unclear, whether the EPP would also expel Fidesz from its ranks.

2.2 The Party of European Socialists (PES) and the Slovakian SMER

The social democratic party family is not free of internal problems with its member parties either. In recent years, SMER – the Slovakian member party of the PES – has adopted anti-Islamic rhetoric and together with the other members of the so-called Visegrád group promoted a restrictive EU migration and asylum policy. Furthermore, just as Orbán has dominated Fidesz, a strong leader, namely Robert Fico, has helped to define SMER. Contrary to Hungary, no major overhaul of the constitutional order took place in Slovakia, but the relationship between the PES and SMER is somewhat comparable to the EPP/Fidesz case and hence serves as the basis for a second case study.

Fico founded SMER in 1999. The party quickly became the most relevant centre-left force in Slovakia and joined the PES as a provisional member in 2005. Following the 2006 parliamentary elections, SMER formed a coalition government with the extreme-right Slovak National Party (SNS). The PES reacted swiftly and robustly. The European party saw the co-operation as a violation of its values and as contradicting the decision of its Congress in Berlin in 2001 that »all PES parties adhere to the following principles of good practice [...]: to refrain from any form of political alliance or co-operation at all levels with any political party which incites or attempts to stir up racial or ethnic prejudices and racial hatred« (PES 2001). Fico defended the move in a letter to the PES Presidency claiming that, »the government's behaviour […] is in full compliance with the traditional values of the European socialist family« and denying a connection between the inclusion of the SNS in the government and a rise in xenophobic and racially motivated attacks on minorities (Fico 2006). Nevertheless, on 12 October 2006, the PES Presidency decided to suspend SMER's provisional membership and to re-evaluate the issue in 2007 »on the basis of exchange of information and contacts between SMER and the PES« (PES 2006).

The PES postponed the decision on how to proceed several times until the PES Presidency lifted the suspension of SMER in February 2008, because »the government policy has proved fully social democratic and SNS Leader Jan Slota together with Robert Fico recently signed a letter underlining both parties respect for the rights of all minorities in Slovakia and for all fundamental values we share« (PES 2008). The PES Congress ratified this decision in December 2009, whereby SMER became a full member of the PES (PES 2009). In fact, there has not been any significant change of attitude of the SNS or members of the SMER following the suspension of SMER or the conditional readmission, after the leaders of the two parties signed the letter. On the contrary, the suspension »strengthen[ed] the nationalist and isolationist wing within SMER« (Downs 2012: 184), and after the lifting of the suspension »nationalism in SMER's rhetoric was rather stronger than weaker« (Hloušek, Kopecek 2016: 33). Yet, the PES lacked an alternative partner in Slovakia, which might be the most decisive reason for the change of mind.

After a brief period in opposition between 2010 and 2012, SMER regained power with a landslide victory in the 2012 parliamentary elections, from then on governing with an absolute majority. Tensions between the PES and SMER rose again in the wake of the influx of a vast number of refugees and migrants in Europe in 2015. Fico not only rejected any mechanism for a solidary distribution of refugees among EU member states, he also hardened his rhetoric. Comments such as »Slovakia is built for Slovaks, not for minorities« (Terenzani 2015), sparked a wave of criticism within the PES. Ahead of the PES Presidency meeting in October 2015, Gianni Pittella – leader of the Progressive Alliance of Socialists and Democrats in the European Parliament (S&D) – and other senior socialist MEPs as well as the Belgian member party of the PES called for the suspension of SMER (S&D 2015a, S&D 2015b, RTBF 2015).

As in 2006, Fico answered the concerns with a letter, claiming that, »in the spirit of solidarity […] people in peril shall receive a helping hand from Slovakia, regardless their religion, skin colour, race« (Fico 2015). Fico also met S&D leader Pittella on 5 October 2015, distancing himself from racist statements appearing in the media. In contrast to 2006, Fico's efforts bore fruit. At the PES Presidency meeting on 9 October, »PES President Sergei Stanishev and member parties expressed their deep concern« and announced »the PES will continue to monitor the situation« (PES 2015b), but did not threaten to sanction SMER. Again, the actions by the PES did not lead to a visible change of course or rhetoric by SMER. In December 2015 – when the PES argued for a joint European approach to tackle the refugee crisis – Slovakia and Hungary filed legal action at the ECJ

against the decision of the Council by qualified majority to relocate 120,000 refugees from Greece and Italy to other member states.

The parliamentary elections in March 2016 cost SMER its absolute majority, but it could continue to govern in a coalition. Just a few months before Slovakia was due to assume the rotating Presidency of the Council of the EU in the second semester 2016, the PES hardened its stance, but stopped short of imposing sanctions. In its resolution, the PES Presidency particularly criticised »the statements by Robert Fico on the role of Islam in Slovakia« and »his policy on refugees, minorities, especially LGBT people«, threatening that »in case of no progress, proposals for sanctions are part of the process up to and including suspension« (PES 2016).

There is no evidence that the Fico government will refrain from anti-Islamic rhetoric and a policy directed to discourage refugees from entering Slovakia. As of July 2018, Slovakia has taken in 16 refugees under the 2015 relocation and resettlement schemes. As a comparison, Sweden, which has about double the population of Slovakia, took in about 3,000 people (EC 2018). However, when the ECJ dismissed the actions brought by Slovakia and Hungary against the provisional mechanism for the mandatory relocation of asylum seekers in September 2017, Slovakia was the only Visegrád country to accept the verdict. Hungary, the Czech Republic, and Poland openly disregarded the court's decision and were therefore referred to the ECJ for non-compliance with their legal obligations on relocation in December 2016.

Though it can be assumed that the dialogue between the PES and SMER has continued since then, the PES has not taken any further formal action.

2.3 Assessment: EuPPs Lack Leverage

On the one hand, there is some influence by the EPP and the PES on their member parties in government through regular dialogue and informal contacts. In addition, peer pressure in the leaders' meetings of EuPPs might have helped to sensitise both Orbán and Fico to the debates at the European level. Both Fico and Orbán tried to avoid sanctions by their EuPPs, inter alia by meeting with the respective critics and openly pledging to share the parties' values. This shows that they deem it important to be accepted by one of the centre EuPPs, which gives the EuPPs a certain leverage.

On the other hand, the two case studies show clearly that the influence of EuPPs is very limited. Most importantly, the actions of the EuPPs did not result in major domestic policy changes or a different positioning of the national parties, irrespective of the state of escalation. Neither soft influence, nor the threat of sanctions, nor the imposition of sanctions – including the suspension from the EuPP – was sufficient to generate enough pressure.

The reasons for this can be found in a political cost and benefit calculation. Orbán and Fico play a double game. In order to avoid the political costs associated with isolation at the European level – in Brussels and Strasbourg – they present themselves as pro-European leaders, who share the values of the European Union and their party families and consent to do everything necessary to comply with them. Orbán does not want to be excluded from the exclusive EPP meetings, just as Fico's SMER wants to remain in the social democratic club. However, these statements are always phrased in general terms and in practice, they do lead to minor changes of legislation and policy. The costs of diverting from the – in their eyes – best strategy to stay in power in the national government considerably outweigh the potential costs of sanctions by their European party family.

Against this background, EuPPs are in a difficult position. As shown in the case studies, sanctions are unlikely to improve the situation in the member states or lead to a change of policy. On the other hand, the suspension also incurs costs on the EuPP itself, because it loses a member party and thus influence and power. The EuPPs are faced with the decision to lose the little influence and power they have over their member parties, without making a decisive impact. From a cost/benefit perspective, a suspension makes sense only when the damage to the party's credibility invoked by a rogue member party surpasses the costs of losing a partner through a suspension or exclusion.

From an idealistic point of view, sanctions are not necessarily the best option either. Even though the EuPPs could not make a major impact on their member parties' actions in government, holding the channels for dialogue open and the parties within a pro-European party

family has a value in itself. The isolation of Central and Eastern European member parties could widen the split between west and east in the EU even further, ultimately endangering the very existence of the Union.

In conclusion, the criticism toward EuPPs for not exerting enough control over their member parties is at least partially unjustified, because it does not sufficiently take into account the nature of EuPPs as transnational organisations and the differences with parties at the national level. In fact, both the PES and the EPP used the instruments at their disposal to influence their members.

3. Recommendations: How EuPPs Could Increase their Influence on Member Parties

Sanctioning mechanisms will prove more successful when EuPPs evolve further. A major step would be to allow them to compete for mandates in the EP with their own transnational lists. With the power to nominate candidates for mandates, or to exclude candidates from a member party from the nomination, the leverage of EuPPs would increase significantly, as a suspension would lead to tangible costs.

Under the current framework, the costs for national parties questioning the EU's values could be increased by linking EuPPs and their affiliated political groups in the EP more closely. In the EU's institutional framework, political groups existed long before the Nice Treaty and the Charter of Fundamental Rights mentioned transnational political parties as political actors with their own constitutional mandate. Political groups can, but do not have to, affiliate themselves with a EuPP, and vice versa. Both can exist and receive funding from the EP's budget in their own right, under a different set of rules and different budget lines.

MEPs from a national member party of a EuPP are automatically members of the affiliated political group in the EP (for example, EPP Group 2013: Art. 3 (1), S&D Group 2014; Rule 2 (1)). However, if a national member party is suspended from its EuPP, the MEPs of the sanctioned party are not automatically excluded from the political group. Indeed, during the suspension of SMER from the PES from 2006 to 2008, the SMER MEPs remained in the S&D, the PES group in the EP. If suspension from a EuPP also meant suspension from the affiliated political group, the leverage of EuPPs would be considerably higher, because membership of a large political group is essential for access to resources, as well as to important functions and legislative roles.

EuPPs could also explore amending their statutes and formalising the process of imposing sanctions, especially the suspension or exclusion of one of their members. Currently, the EPP and the PES do not have clear guidelines on the criteria that have to be met to justify a sanction or the circumstances under which a sanction is inevitable. As regards sanctioning, the decision-making bodies and the distribution of power are the same as for political decision-making. The decision-making bodies are not obliged to justify their conclusions, nor are there any means to challenge their decisions. Clear criteria and an internal court of arbitration with the possibility of legal appeal could render these processes more objective and at the same time counter the criticism that European parties are inconsistent toward national parties in their ranks that violate European fundamental values.

The nomination of standing rapporteurs to monitor the development of a given member party in government – who should not only report to the internal bodies of the EuPP, but also publish their findings – is another measure to consider. Decisions on sanctions would thus follow a longer period of assessment, be based on first-hand information, and thereby be less arbitrary. Through publication, additional public pressure could be amassed.

For the time being, EuPPs have to resort to softer means of influence, notably within the framework of party summits and the intergovernmental leaders' meetings ahead of European Councils. These meetings, in which the European party families coordinate policy positions, have been increasingly institutionalised and are now important forums also for tackling intra-party dissent (Van Hecke 2013: 71). Nevertheless, as the leaders' meetings do not have any formal decision-making power, their success and influence depend largely on the participation of important members, especially representatives of larger and more powerful member parties. EuPPs should thus do everything in their power to make the gatherings of their party family's prime ministers, opposition leaders, and commissioners as valuable as possible for the participants. Peer pressure and the power of argument can then lead to results, although these are not quantifiable due to the confidential nature of leaders' meetings.

Abbreviations

EC	European Commission
ECJ	European Court of Justice
EP	European Parliament
EU	European Union
EuPP	European Political Party
EPP	European People's Party
FIDH	International Federation for Human Rights
MEP	Member of European Parliament
PES	Party of European Socialists
S&D	Progressive Alliance of Socialists and Democrats in the European Parliament
TEU	Treaty of the European Union

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