THE 2024 EUROPEAN ELECTIONS:
RESILIENCE UNDER STRAIN

SPECIAL REPORT

Authority for European Political Parties and European Political Foundations

28 June 2024

Photo credits:
Authority's archives
AdobeStock.com

© Authority for European Political Parties and European Political Foundations, 2024. For any use or reproduction of photos or other material that is not under the Authority for European Political Parties and European Political Foundations' copyright, permission must be sought directly from the copyright holders.

TABLE OF CONTENTS

1 FOREWORD OF THE DIRECTOR 1

2 KEY OPERATIONS 2

2.1 STRUCTURAL VERIFICATIONS 2

2.1.1 Processes involving European political parties 2

2.1.2 Cooperation with specialised authorities 2

2.1.3 Preliminary findings 3

2.2 FINANCIAL COMPLIANCE CONTROLS 3

2.2.1 Continuous checks of donations 3

2.2.2 Frontloading checks of activities 4

2.2.3 Cooperation with specialised authorities 4

2.2.4 Preliminary findings 4

2.3 TRANSPARENCY 5

2.3.1 Continuous publications of the Authority 5

2.3.2 Increasing visibility of European democracy 6

2.3.3 Preliminary findings 6

2.4 PROTECTING DEMOCRATIC INTEGRITY 6

2.4.1 Addressing personal data abuses in an electoral context 7

2.4.2 Early monitoring of European political parties' campaigning 8

2.4.3 Cooperation with specialised authorities 8

2.4.4 Preliminary findings 8

3 RECOMMENDATIONS 10

3.1 STRENGTHENING STRUCTURAL RESILIENCE OF EUROPEAN DEMOCRACY 10

3.2 IMPROVING EFFECTIVENESS OF POLITICAL FINANCING INTEGRITY RULES 11

3.3 FACILITATING OPERATIONAL COORDINATION ACROSS LEVELS AND AUTHORITIES 12

Pascal SCHONARD

1 FOREWORD OF THE DIRECTOR

This Special Report is designed to give the reader an overview of the Authority's initial conclusions on the 2024 European elections and the corresponding campaign of European political parties ahead of it. The Authority of course must reserve its position, in particular as regards aspects for which European political parties will only provide data in their financial statements for 2024 to be submitted by June 2025.

Some salient features are nonetheless clear already now: European elections continue to be a beacon of democratic political life on this continent, as is evidenced by the evolution of the turnout that reached 51.06% in 2024 and thus has kept growing compared to 2019, which already witnessed a significant increase over the previous European elections. I also note that the European elections have involved a lively debate among, and to some extent about, the lead candidates ("Spitzenkandidaten") that some of the European political parties have designated, thus making the democratic process at European level more visible to the citizens. Visibility and readability of the European elections was also helped by the reliable first projection of the future composition of the European Parliament that became available in the evening of 9 June 2024 thanks to the Parliament's administration, although later changes in announced affiliations of certain delegations among political groups have, and still might modify the picture.

Thus, European Union democracy has remained resilient. But it is also subject to significant strain. A higher level of aggressiveness in the electoral context has been a worrisome development. This went as far as physical attacks on candidates during the electoral campaign in some Member States. Democracy is under attack also from malign actors operating from third countries and in cyberspace. Several European political parties and some of their member parties have been subject to cyberattacks during the European elections campaign.

Hence, it was all the more important to engage in accelerated compliance controls, provide preventive guidance as well as to ensure speedy and consistent follow-up to questions raised in the preparations for the European elections. The Authority is not alone in this effort: We are part of an actively cooperating 'Team democratic integrity' working to safeguard European Union democracy and the integrity of the European elections. Seamless cooperation exists in particular with the Authorising Officer of the European Parliament, the contact points in the Member States, data protection authorities and other expert organisations including Europol.

But we must and can do more. For the adversaries of democracy do not relent.

I hope you will find this Special Report interesting!

Pascal Schonard

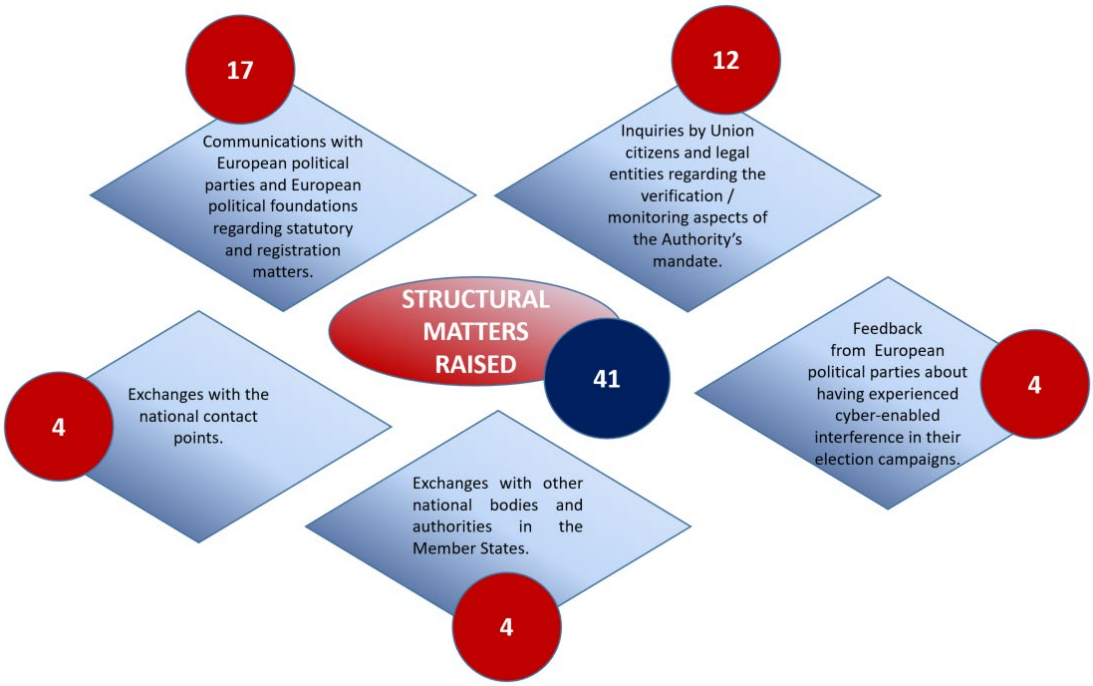
2 KEY OPERATIONS

2.1 STRUCTURAL VERIFICATIONS

2.1.1 Processes involving European political parties

The Authority performed a regular verification of compliance by the European political parties and European political foundations with the registration conditions, pursuant to Article 10(1) of Regulation (EU, Euratom) No 1141/2014, from February 2024 onward.

In addition, the Authority exchanged communications with European political parties and European political foundations on 17 occasions regarding statutory and registration matters, including changes of membership, on publicly available information indicating possible structural changes, potential changes of seats and of the composition of governing bodies, potential statutory amendments, preventive guidance, interpretation of statutes, impact of national elections on the membership structure, etc.



2.1.2 Cooperation with specialised authorities

The Authority continued its useful cooperation with national contact points by addressing questions and receiving information on registration related topics by the authorities from 4 Member States. In addition, the Authority was able to establish contacts and ask for and receive specific information from other national bodies and authorities in 4 Member States.

2.1.3 Preliminary findings

The Authority did not detect any shortcomings in the registration conditions laid down in Regulation (EU, Euratom) No 1141/2014 that would have required deregistration.

However, the Authority notes that European political party structures evolved dynamically. In particular, an unusually high rate of membership changes manifests itself since 6 December 2023, which marks the date of six months prior to the European elections.

*Please see for further details the Authority's website: https://www.appf.europa.eu/appf/en/parties-and-foundations/registered-parties . Counting any member party losing or acquiring genuine membership from 6 December 2023 until 28 June 2024 as "1", to the extent known to the Authority as of 28 June 2024.

It also might be noteworthy that statements of parties at national level on their alliances at European level, and media coverage thereon, focused strongly on announced changes of composition in political *groups* in the European Parliament, while the composition of the European political *parties* was not necessarily affected in the same way, or simultaneously.

2.2 FINANCIAL COMPLIANCE CONTROLS

2.2.1 Continuous checks of donations

A key regulatory specificity of the pre-electoral period is the duty of European political parties and European political foundations to notify on a weekly basis the donations they received. This concerns donations of any amount, and includes also donations that are received but later returned.

Coupled with the publications by the Authority, and given that the Authority strived to conduct timely initial reliability checks and publish the donations, usually within one week of having received the notifications the public thus benefits from an almost real-time photography of the European political parties' and foundations' evolving revenue structure.

Without prejudice to the checks that will be conducted when the complete financial statements of the European political parties and foundations for 2024 will become available in 2025, the Authority already proceeded to in-depth scrutiny in 15 instances of such donation notifications, given compliance risk markers detected. Additionally, the Authority issued requests for further information to ensure completeness and accuracy of data received from European political parties and European political foundations.

2.2.2 Frontloading checks of activities

Contrary to the rules on donations, under the current legal framework, the Authority does not have systematic access to activities-related expenditure information while the European elections campaign is ongoing.

This made a preventive compliance approach of the European elections campaign all the more important. In particular, the Authority designed the European Campaign Action Plan Tool (E-CAP) - a results-oriented, preventive compliance management guidance addressed to European political parties in order to facilitate the compliance of their campaigns for the European elections with Regulation (EU, Euratom) No 1141/2014. The letter sent to all European political parties in this respect was published on the Authority's website including the E-CAP template[1].

The Authority additionally scrutinised publicly available information on activities it has become aware of where they presented compliance risk factors, and contacted European political parties for specific additional information where necessary.

2.2.3 Cooperation with specialised authorities

Operational contacts with specialised authorities took place in several instances of the financial compliance control operations at the Authority in the six months prior to the European elections.

Donations were a particular focus area of the exchanges the Authority initiated toward national authorities. The Authority reached out in 3 such cases.

Vice versa, the Authority also received a number of questions from 3 national contact points, in particular as regards the interaction between Union and national rules on political parties financing and campaigning activities.

2.2.4 Preliminary findings

The Authority notes that campaign activities of European political parties were lively, including in physical events and on social media, although sometimes European political parties began campaigning later than the political parties at national level.

The European political parties' campaign activities were often preceded or accompanied by precautionary questions to the Authority, which was a welcome opportunity to prevent compliance issues in the concrete case, but

[1] https://www.appf.europa.eu/appf/en/guidance/european-campaign-action-plan

also to provide additional public guidance. The Authority replied to questions received in the six months prior to the European elections within an average of 2.85 days.

The current regulatory framework does not provide the Authority with systematic real-time information on campaign activities. The full picture will only become visible by June 2025, when the European political parties will have to submit their accounts for 2024 in accordance with Article 23 of Regulation (EU, Euratom) No 1141/2014. The Authority nonetheless frontloaded potential regulatory matters which it has become aware of, sought corresponding documentation and, where necessary, is taking the matter further with additional investigative steps.

In parallel, the weekly donations notifications to the Authority in the six months preceding the elections generated accelerated and highly resources-intensive compliance control processes and additional scrutiny on the revenue side of European political parties and foundations.

Additional scrutiny was applied, in a number of situations, to donations alleged to have originated from European Union subsidiaries of groups of companies headquartered in a third country. While, indeed, it is lawful for a European political party or foundation to receive donations from an EU-established legal entity within the other limits of the regulatory framework, the Authority does not satisfy itself with the 'last mile' transaction incoming on the account of the European political party or foundation, but seeks to establish, within the limits of its investigative tools, the effective decision-maker of the donation. If this decision-maker is a legal or natural person from outside the European Union, the donation cannot be accepted and has to be returned by the European political party or foundation in accordance with Article 20 of Regulation (EU, Euratom) No 1141/2014, even if a European Union-based entity intervened in the payment execution.

In case the Authority's investigative tools were exhausted but reasonable doubts remained, cooperation tools of the Authority were activated in accordance with Union law wherever possible and other competent authorities were notified so as to enable them to assess the matter from their perspective.

2.3 TRANSPARENCY

2.3.1 Continuous publications of the Authority

One of the key outputs of the Authority's work is providing timely and reliable public information on structures and revenues of European political parties and foundations.

In the pre-electoral period, publications occurred continuously, including in particular concerning structural changes (see above, section 2.1.1) and on donations received by European political parties and European political foundations that had to be reported on a weekly basis to the Authority (see above, section 2.2.1.). In case of remaining uncertainties as to accuracy and completeness of some notifications, and pending scrutiny by the Authority, the publications were prioritised but relevant data categories clearly marked "*Subject to further scrutiny by the Authority". The corresponding entries are

then later either corrected, or the scrutiny reserve is removed without change, once checks have been finalised.

Donations publications were provided in open data format and now, additionally, include also a reference to national registration number of donor entities, wherever available. This facilitates public scrutiny of the controlling interests in such entities.

Additionally, the Authority updated its European Campaign Action Plan ("E-CAP") guidance on an ongoing basis, including with anonymised replies to horizontally relevant questions of European political parties and foundations.

2.3.2 Increasing visibility of European democracy

The Authority cooperated with science-based national vote matching applications across the European Union. As a result, information on European political parties' role were published in several vote matching applications across the Union, as well as on a European-level website which, as of 9 June 2024, had 671.000 users.

2.3.3 Preliminary findings

European democracy benefited from the transparent framework on European political parties' and foundations'. This is demonstrated also by the reliance on the Authority's data in a number of political debates as well as journalistic and civil society contributions.

At the same time, completeness and reliability of the Authority's transparency services depend on the data it is entitled to receive and its investigative tools.

Transparency is also a matter of the readability of the legal framework for the European political parties and foundations themselves: In this respect, questions and interactions with European political parties and foundations throughout the campaigning phase indicated that ongoing guidance continued to be needed. This is linked in part to evolving campaign models (e.g. role of social media and influencers), but also to a complex legislative framework characterised by complementary layers of requirements from Union and national law on campaigning activities.

2.4 PROTECTING DEMOCRATIC INTEGRITY

All of the above work streams serve a common purpose: Protecting the European Union's democratic integrity, including against unlawful interference. Some provisions of the current legal framework directly address the matter, such as Article 20(5)(d) of Regulation (EU, Euratom) that prohibits donations from non-EU origin. Or Article 10a of Regulation (EU, Euratom) No 1141/2014 as amended in 2019, which prohibits and sanctions European political parties and foundations that would take electoral advantage of personal data infringements. But the protection is wider: The obligation to comply, in programme and activities, with the Union's values and structural requirements on European political parties and foundations all contribute to shield democracy from abuse and undermining.

2.4.1 Addressing personal data abuses in an electoral context

In advance of the European elections, the Authority took measures to ensure practical effectiveness of the competences it and its institutional partners have. In addition to presentations at the European Data Protection Board and the European Cooperation Network on Elections, the Authority organised an online event for its specialised interlocutors in national data protection authorities. The aim was to discuss the European elections context and the procedural frameworks setting out the cooperation between the Authority and the Member States. National authorities from 24 Member States were present at this exercise.

As a practical follow-up, the Authority with the support of the European Centre of Excellence on Hybrid Threats organised a table-top exercise that focused on addressing realistic threat scenarios. National authorities from 17 Member States as well as 10 representatives of European institutional partners were present at the event.

On 4 June 2024 the Authority organised a final preparatory online meeting with its interlocutors in the data protection authorities from the Member States to compile information on the current situation with respect to specific occurrences and general trends that could be of interest in the context of the Authority's mandate pursuant to Article 10a of Regulation (EU, Euratom) No 1141/2014. Representatives 14 Member States authorities were present at the latter meeting. Among the topics discussed were complaints to some data protection authorities concerning leaflets or other types of advertising materials from political parties. Deep fakes and similar types of manipulation with the aim to influence the elections had not been raised to the attention of the represented Member States' authorities at the time of the meeting. The exchanges also touched upon the threats of foreign interference into European democratic processes.

Operationally, the Authority took measures to continuously monitor online publications of European political parties and European political foundations in light of Article 10a of Regulation (EU, Euratom) No 1141/2014, including during weekends prior to the European elections.

2.4.2 Early monitoring of European political parties' campaigning

The Authority conducted an early monitoring exercise to give the opportunity to European political parties to raise issues they may have encountered during the election campaign.

The following results are currently subject to further assessment and express the initial views of the European political parties themselves rather than a finding of the Authority:

2.4.3 Cooperation with specialised authorities

In addition to the excellent relations with its contact points in the Member States as well as interlocutors in the data protection authorities, the Authority cooperated closely with the European Parliament and with several other EU stakeholders, including the European External Action Service and the European Data Protection Board.

The Authority also strengthened its cooperation with Europol by signing a Memorandum of Understanding on strategic information exchange in November 2023. This memorandum paved the way for Europol and the Authority to benefit from each other's networks in democratic processes falling under their respective mandates, which has proven to be useful already.

2.4.4 Preliminary findings

European democracy is resilient but exposed to a number of simultaneous challenges, in particular as regards the need for a peaceful democratic debate culture, as well as the attempts by external adversaries of democracy to undermine functioning or credibility of the European elections.

Points of concern include:

- Physical violence exercised against some political office-holders or candidates in some Member States prior to the European elections;

- Interference by Russia and China into democratic political processes, including suspicions of corruption and espionage, as revealed by ongoing investigations in a number of Member States;
- Foreign information manipulation and interference by virtue of communication tools, including by social media and internet outlets;
- Cyber-enabled attacks on the computer systems of European political parties or some of their member parties.

The Authority notes that for all these phenomena individually, substantive rules and expert organisations have been established to some extent. But democratic integrity is rarely perceived organically. Yet this would be vital: The adversaries of democracy do not select their interference tools by competence areas. Their attacks are wide-ranging, multi-tool and multi-level.

3 RECOMMENDATIONS

3.1 STRENGTHENING STRUCTURAL RESILIENCE OF EUROPEAN DEMOCRACY

The starting point for any structural reflection is Article 10(4) of the Treaty on European Union, whereby European political parties contribute to forming European political awareness and to expressing the will of citizens of the Union.

This has also been the anchor point of the General Court's landmark Judgment of 25 November 2020 in the case *ACRE* v *Parliament* (T-107/19), which not only has a financial dimension. It also stated in relation to a provision of the predecessor regulation which remained unchanged in Regulation (EU, Euratom) No 1141/2014 that political parties, of which European political parties are composed, are to be understood as associations of *Union* citizens.

While this does not exclude that European political parties enter into structured relations with non-EU political formations[2], the legal framework thus already now requires that European political parties and their affiliated foundations are not in reality controlled by non-EU nationals or entities.

The Authority therefore expected European political parties and their affiliated foundations for whom risk factors had been identified to hard-wire safeguards into their statutory system, so as to prevent that non-EU nationals or entities could develop, in any imaginable decision-making circumstance, a majority or blocking minority in the internal governance[3]. In this respect, the Authority's preventive engagement with European political parties and foundations that are currently registered was received, without exception, in a very constructive spirit.

Building on the preventive work already undertaken by the Authority, it is therefore recommended to strengthen the protection of European political party and foundations structures from foreign interference in keeping with the proportionality principle, and in particular:

- to require provisions to be contained in the statutes of European political parties and foundations which ensure that, under all circumstances that can arise in light of their respective internal decision-making procedures, persons who hold no EU citizenship or non-EU entities cannot, individually or collectively, impose a course of action on, or block decision-making of, a European political party or foundation;

- structured political relations with non-EU nationals or entities remain possible subject to the above, although upgraded transparency requirements should be imposed on the European political parties and foundations, for publication by the Authority.

[2] Such structured relations, where the Authority has information on them, are published in appendix 2 of the Authority's 2023 Annual Report: https://appf.europa.eu/appf/en/other-information/annual-activity-reports .

[3] https://appf.europa.eu/appf/en/guidance/structural-aspects.

3.2 IMPROVING EFFECTIVENESS OF POLITICAL FINANCING INTEGRITY RULES

While substantive rules require the Authority to sanction certain prohibited origins of funds, the investigative provisions of Regulation (EU, Euratom) No 1141/2014 currently do not empower the Authority to require information on donors and contributors other than from the European political parties and European political foundations themselves.

The European Commission proposal of 25 November 2021 (COM(2021)734 final) proposed a first step to close this investigative gap by providing for a possibility to request, under certain circumstances, additional information directly from donors. This step forward is welcome but would still leave significant investigative gaps where alleged donors are not effectively available to answer questions of the Authority, e.g. because donor entities dissolve, natural person donors move outside the European Union or where donors are themselves not informed of the actual origin of funds that they transferred onward.

These issues are particularly relevant when it comes to establishing the prohibited non-EU origins of funds[4], because jurisdictional and practical obstacles to contacts with donors tend to arise.

In the latter respect, it should also be recalled that the effectiveness of Regulation (EU, Euratom) No 1141/2014 depends to a large extent on complementary legal frameworks for political parties and foundations at national level: prohibitions in relation to non-EU origins of funds are undermined if contributions come from member parties or foundations that are not subject to similar prohibitions.

On a final note, it should be underlined that the weekly *donations* notifications required by existing legislation in the six months preceding the European elections have significantly improved transparency of the European political process, and also allowed the Authority to frontload a number of relevant checks that would otherwise be postponed to the year after the elections. The same is not the case for campaign and other *expenditure* of the European political parties. The latter information becomes available only one year after the European elections are over, when the annual accounts are submitted to the Authority and the Authorising Officer of the European Parliament, and hence the effectiveness of the applicable limitations of spending is significantly reduced in that respect.

[4] See Article 20(5)(d) of Regulation (EU, Euratom) No 1141/2014 (donations) and the Judgment of the General Court of the European Union of 25 November 2020, *ACRE* v *Parliament*, T-107/19 (contributions to European political parties).

It is therefore recommended to close loopholes and provide additional proportionate investigative tools to the Authority by drawing on the benefits from existing financial integrity legislation:

- The financial Intelligence Units that are already established in the Member States by virtue of anti-money laundering rules should be empowered to forward to the Authority information on suspicious transactions involving alleged donors of European political parties and foundations, so as to identify "donors behind the donors" and thus facilitate enforcement of the prohibition against donations from non-EU origin;

- At Member State level, there should be a general prohibition of obtaining political financing from non-EU origin;

- It could be assessed whether activities-related expenditure of European political parties and foundations should be made available to the Authority, in the six months preceding the European elections, on a weekly basis as is the case already for donations information, so as to accelerate enforcement of prohibitions of funding as well as to improve transparency of campaigning activities.

3.3 FACILITATING OPERATIONAL COORDINATION ACROSS LEVELS AND AUTHORITIES

Democracy is the Union's DNA. Protecting democratic integrity therefore is a condition for the Union's activity. As regards more specifically the European elections, the proper functioning of the campaigning framework and electoral integrity at Member States and Union level combined is also a fundamental right of the citizens. Indeed the Grand Chamber of the Court of Justice recalled in its seminal Judgment of 6 October 2015 in the case *Delvigne* v *Commune de Lesparre-Médoc* (C-650/13), that the guarantees of Article 39 of the Charter of Fundamental Rights apply to the entire European electoral process, including in relation to the citizens' own Member States of nationality.

The administrative setup needs to reflect this.

In this respect, it is encouraging that Union and national law already contributed to build various excellent expert organisations in the areas of financial integrity, foreign interference identification, data protection, electoral processes, cybersecurity and law enforcement.

In practice, the Authority has excellent relations with national contact points notified to it by the Member States, which gather every year with the Authority for an annual conference, as well as with interlocutors on national data protection authorities who liaise with the Authority data infringements that could have a bearing on the European elections. Additional successful contacts were developed by the Authority in particular with Europol.

However, these expert organisations are not always optimally set up to handle democratic integrity as the single organic area of operations that it really is. In line with their current mandates, they often have to consider democratic integrity as an area that is not at the core of their activities, and which can be contributed to only incidentally and with limited resources. It has to be pointed

out, for instance, that not all interlocutors working alongside the Authority on democratic integrity had previously been acquainted with each other, sometimes not even within the same Member State.

The risk that results from this state of affairs is that the protection of European democratic integrity as an organic area of operations left aside or approached with differing standards by highly specialised expert organisations.

This is a problem not only with a view to preventing or sanctioning wrongdoing. This is also a problem for European political parties that wish to play an active role in developing the European space for political debate, while complying with all applicable rules. Multiple normative and administrative layers make campaigning across the Union challenging, as they create red tape and sometimes yield contradictory expectations. The new Regulation (EU) 2024/900 on political advertisement provides an initial recognition of this issue, as it recalls that European political parties are not national political parties of the Member State of their seat, and hence enjoy non-discriminatory access to other Member States' advertisement markets. This logic must now be transposed also into the administrative setup.

It is therefore recommended to introduce operational coordination capabilities into the administrative ecosystem of democratic integrity, and in particular:

- to further develop the Authority for European Political Parties and European Political Foundations into a European Defence of Democracy Authority (EDDA) tasked to facilitate operational defence of democratic integrity across the competent Union and Member State organisations. As a measure on the basis of existing legislation, this would include designating the Authority as manager of the European repository for online political advertisements, in accordance with Art. 13(1) of Regulation (EU) 2024/900, and grant it corresponding resources. As a legislative measure, regarding any cross-border dimension of democratic integrity case files, the Authority should be attributed an operational coordinator function among existing competent authorities in the Union;

- to mainstream the protection of democratic integrity and the good functioning of European elections into relevant legislation as well as the mandates of Union bodies.