



17.5.2016

NATIONAL PARLIAMENT OPINION

Subject: Opinion of the Swedish Parliament on the proposal for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage (T8-0395/2015-2015/0907(APP))

The Swedish Parliament has sent the attached opinion on the aforementioned decision.

Reasoned opinion of the Swedish Parliament (Riksdag)

The Riksdag has examined the European Parliament draft proposal (P8_TA(2015) 0395) for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage.

The Riksdag notes by way of introduction that this is a draft legislative act falling within the scope of the subsidiarity provisions in Article 5 of the EU Treaty and in the Protocol on the application of the principles of subsidiarity and proportionality.

The Riksdag notes that the European Parliament sent its proposal for a legislative act to the Riksdag on 10 December 2015. In this connection it was stated that the European Parliament, on the basis of Article 223(1) of the Treaty on the Functioning of the European Union (TFEU), had adopted a draft legislative act containing a proposal for a Council decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage. There was no notification, in connection with the transmission, that all language versions of the draft legislative act had been sent to the national parliaments and chambers of national parliaments in the Member States. Neither was there any information to the effect that the procedure set out in the Protocol on the application of the principles of subsidiarity and proportionality had been initiated or that the Riksdag had the right to issue a reasoned opinion within eight weeks stating why it considered that the draft in question did not comply with the principle of subsidiarity. When the Commission and Council send their draft legislative acts, they accompany them with such information in accordance with a practice of which the national parliaments have been notified.

The absence of this type of information may lead to uncertainty among the EU's national parliaments – should a draft be covered by the Treaty provisions concerning the subsidiarity assessment – as to the date from which the eight-week deadline for issuing a reasoned opinion is to be calculated. In the Riksdag's view, it would be a good system if all legislative acts sent to national parliaments, irrespective of which institution sends them, were accompanied by such information. In June 2010 the European Parliament announced that it intended to comply with the practices that the national parliaments had worked out with the Commission and Council.

The Riksdag also notes that the legislative act was not accompanied by reasons relating to the subsidiarity and proportionality principles. It is true that the European Parliament resolution does contain reasons relating to these principles. These reasons are, however, couched in general terms and do not explain why the objectives of the proposals cannot be achieved by rules at Member State level. Overall the Riksdag takes the view that the proposal does not meet the requirements of Article 5 of the Protocol on the application of the principles of subsidiarity and proportionality.

The lack of clear information to national parliaments and the absence of reasons may result in undermining the national parliaments' right of objection, which in the long term would impair the democratic decision-making process in the EU.

The Riksdag believes that the underlying idea in the current electoral law, that the European Parliament election procedure should follow in all essentials the rules that apply to national elections, is a good system. In the Riksdag's view it should remain the case that the formalities for the conduct of elections may vary from one Member State to another. In the interest of confidence in democracy and electoral procedure, the Riksdag thinks it is important that the formalities for the conduct of elections are familiar to the electorate, and thus contribute to maintaining confidence in electoral procedures.

The proposals for a common day and time for ending a European Parliament election, and on measures to avoid double voting, are of a nature such that the objectives of these measures can better be achieved at EU level. In these parts of the text, then, the Riksdag considers that proposal complies with the subsidiarity principle. However, the Riksdag takes the view that the proposal for measures to avoid double voting provides unnecessarily detailed rules at EU level, resulting in excessive administrative burdens.

The Riksdag takes the view that the other proposals in the legislative act conflict with the subsidiarity principle. The proposals concerning changes in the respective roles of the European Parliament and the Council as regards decisions on which day should be election day, and on measures to implement the electoral act, go further than is necessary to achieve the objectives sought. The same applies to the proposal on a new, joint constituency and the appointment of a candidate for the position of President of the Commission. Concerning the other proposals, the Riksdag judges that the objectives of the proposed measures can be better achieved by the Member States. Introducing such rules on the formalities for the conduct of European Parliament elections at European Union level could, in the Riksdag's view, have the opposite effect to the desired one, and lead to reduced confidence and lower turnout. Furthermore, many of these proposals are such that they could also be challenged under the proportionality criterion, which forms part of the assessment of the applicability of the subsidiarity principle.

The Riksdag particularly wants to stress that the proposals for requirements that political parties participating in European Parliament elections should adopt democratic and transparent procedures in the selection of candidates for these elections, and that candidate lists for these elections should be gender-balanced, amount to regulation of the internal affairs of the political parties. The Riksdag does not believe that the internal affairs of political parties should be regulated at EU level. Such regulation could in any case be challenged, including at national level.

Many of the proposals are also hard to reconcile with the Swedish fundamental rules on freedom of the press and freedom of expression. This applies to the proposals on the compulsory placing of logos on ballot papers, on the content of national parties' campaign material, and how the electoral material should be published. It also applies to the proposal on banning forecasts based on exit polls before a certain time. Rules on the freedom of the press and freedom of expression are fundamental to a democratic society. Restricting these freedoms by EU law on electoral procedure appears from the Riksdag's point of view to be wholly inappropriate.