

Reform of the electoral law of the EU

The European Parliament is expected to give its consent during its July session to a draft Council decision amending the Electoral Act of 1976 laying down common rules governing elections to the European Parliament. Among other things, the new rules will put in place a minimum threshold, of between 2 % and 5 %, for constituencies comprising more than 35 seats.

Background

Elections to the European Parliament are governed, for the most part, by national laws. Only certain basic common principles are established by the 1976 [Electoral Act \(amended in 2002\)](#). These include proportional representation, a common 'electoral period', a voluntary threshold of not more than 5 % at national level, and certain incompatibilities between the office of MEP and other public offices in Member States. The legal basis for reforming the EU electoral law is enshrined in [Article 223](#) of the Treaty on the Functioning of the European Union (TFEU) mandating the Parliament to lay down the provisions necessary for EU elections.

European Parliament proposal on the revision of 1976 Electoral Act

On 11 November 2015, the European Parliament adopted a [resolution](#) (including a proposal) based on the legislative initiative [report](#) prepared by the Committee on Constitutional Affairs (AFCO) on the [reform](#) of the 1976 Electoral Act. The EP aimed at strengthening the democratic and transnational dimension of European elections, by proposing a number of changes such as equal visibility of European and national political parties on ballot papers; establishment (subject to unanimous decision in Council) of a joint constituency in which lists are headed by lead candidates for the post of President of the Commission; a common deadline of 12 weeks before the vote for the establishment of electoral lists and the nomination of lead candidates; gender-balanced electoral lists, the right of EU citizens living outside the EU to vote in European elections, and introduction of a mandatory threshold of between 3 % and 5 % for the allocation of seats for constituencies, or single-constituency Member States, with more than 26 seats in the EP.

Council position

After having discussed Parliament's proposal during five successive presidencies, on 7 June 2018, the Council unanimously approved a [draft decision](#) on the reform of the Electoral Act. One of Parliament's key proposals, concerning the threshold, was modified, setting an obligatory minimum threshold of between 2 % and 5 % for constituencies (including single-constituency Member States) with more than 35 seats. This should be implemented by the 2024 EU elections at the latest. The Council did not agree on the establishment of a joint constituency or on the lead candidates procedure as proposed by the Parliament. The draft proposal allows Member States the use of different voting methods (postal, electronic, internet) and mandates the protection of personal data; penalisation of 'double voting' by national legislation and observance of a three-week deadline for submission of lists. The possibility for EU citizens to vote from third countries and the visibility of European political parties on ballot papers remain subject to national rules.

The Constitutional Affairs Committee (AFCO) is due to vote on its recommendation on 2 July, which would enable Parliament to give its consent to the Council's decision during its July 2018 plenary session.

Recommendation on consent: [2015/0907\(APP\)](#); Committee responsible: AFCO; Rapporteurs: Danuta Maria Hübner (EPP, Poland) and Jo Leinen (S&D, Germany). Special legislative procedure (Article 223 TFEU): Parliament submits proposal to the Council. Council adopts decision by unanimity after obtaining Parliament's consent. Finally, the act comes into force after the Member States approve it in accordance with their respective constitutional requirements.

EPRS | European Parliamentary Research Service

Author: Kristina Grosek, Members' Research Service
PE 623.561 – June 2018



This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy. © European Union, 2018.

eprs@ep.europa.eu (contact) <http://www.eprs.ep.parl.union.eu> (intranet) <http://www.europarl.europa.eu/thinktank> (internet) <http://epthinktank.eu> (blog)