

Europeanising the elections of the European Parliament¹ Outlook on the implementation of Council Decision 2018/994 and harmonisation of national rules on European elections

ABSTRACT

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, looks into the main obstacles to unifying and modernising European elections in different Member States. It gives an overview of the implementation of Council Decision 2018/994 and highlights, in particular, the importance of the standardisation and harmonisation of electoral ballots as a means to properly inform voters and strengthen the European party system. As a more general remark, the study concludes that the European and national political parties should further strengthen their relationship, a vital element of the European political system that can increase the transnational nature of European elections.

This study analyses the main obstacles to unifying, 'Europeanising', and modernising European elections. It examines, in particular, which Member States (MS) have not been willing or able to ratify Council Decision 2018/994, and why. It is based on short reports on the ratification status of Council Decision 2018/994 and data collection at party and country level, performed by 26 country experts contacted and coordinated by the author.

The initial articles of Council Decision 994/2018 (concerning, in particular, proportional representation and universal suffrage) are uncontroversial. Beyond these articles, the decision contains a number of provisions that MS are either invited or requested to implement:

- *Measures that MS may implement:* A threshold not exceeding 5%; ballot papers showing names and logos of the European political parties (EuPPs) to which national parties are affiliated; absentee (electronic, postal or advance) voting; the possibility of voting from third countries outside the EU;
- *Measures that MS shall implement:* A threshold between 2% and 5% for MS with constituencies over 35 seats; a three-week deadline for candidacies; prohibiting double voting through appropriate sanctions; establishing a contact authority for data exchange on voters/candidates; exchanging data no later than six weeks before elections.

¹ Full study in English:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694199/IPOL_STU\(2021\)694199_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694199/IPOL_STU(2021)694199_EN.pdf)



To date (June 2021), three Member States have not yet ratified Council Decision 2018/994; these are, Cyprus, Germany and Spain. Further two Member States, namely Romania and the Czech Republic, did so only after the European elections in 2019.

In **Cyprus**, the initiated legislative procedure entailed the automatic registration of Cypriots with double nationality living abroad, which could have triggered both practical costs of a higher number of electors and delicate political balance, with the majority of Turkish Cypriots potentially shifting the balance in favour of the traditional opposition party, the Progressive Party of Working People (AKEL).

In **Germany**, the Constitutional Court has repeatedly ruled the electoral threshold in elections to the European Parliament unconstitutional. Re-introducing an electoral threshold, therefore, would require parliamentary majorities qualified to amend the Constitution. Germany's own federal elections law was modified in October 2020, with the votes of the governing majority (CDU/CSU, SPD). Several opposition parties (the FDP, the Left, the Greens) have appealed against the new federal elections law to the Constitutional Court. Thus, keeping the ratification process of Council Decision 2018/994 away from the current controversies surrounding the federal elections law (with new elections in September 2021) is crucial for the success of the process, which will hopefully be reconsidered in the course of the new legislature.

In **Spain**, too, the complexity of ratification seems to be attributable to problems associated, in particular, with establishing a formal electoral threshold, which might prevent smaller political parties from electing MEPs. Given Brexit, Spain will have more elected MEPs in the 2024 European elections. This will further increase the proportional representation of smaller parties in terms of elected MEPs. However, adopting a formal electoral threshold may be particularly problematic for a political system as fragmented as the Spanish one, which is particularly noticeable in European Parliament elections.

As already mentioned, the Europeanisation of electoral ballots is not obligatory but only suggested in the Council Decision 2018/994. Nevertheless, this standardisation and harmonisation deserves special attention, as it is fundamental to properly inform voters and strengthen the European party system: First, it is unequivocally the most underdeveloped, even considering a 'minimal' definition of Europeanisation. Ballot design across Europe shows an extremely wide variety of formats and voting procedures, only partially linked to different electoral arrangements, and not all are compatible with such provision. Secondly, it shows an opposite trend between 2014 and 2019, where there has been some backsliding (more countries with Europeanised ballots, but a lower presence of EuPPs *vis-à-vis* other non-recognized European transnational associations; fewer MEPs elected). This dynamic is strictly intertwined with the demise of the *Spitzenkandidaten* system.

Apart from the ratification of Council Decision 994/2018, European and national political parties should further strengthen their relationship, a vital element of the European political system that can increase the general transnational nature of European elections (not only of European ballots). The actual level of Europeanisation depends less on rules and more on the general climate around the election. In this regard, a reinvigoration of the *Spitzenkandidaten* procedure would also be tremendously beneficial.

Finally, other formal elements overlooked by the Council Decision, such as lowering the voting age, creating a transnational constituency or promoting gender equality, should be kept on the agenda to further reform European electoral law.

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