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# **WORKING DOCUMENT**

on the Composition of the European Parliament

Committee on Constitutional Affairs

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The apportionment of seats in the Parliament is a politically sensitive issue as it has a direct impact on citizens' representation in the only directly elected European institution. In this respect, it is of utmost importance to ensure that the composition of the European Parliament is based on fair, transparent, objective, sustainable, and equitable principles.

The distribution of the European Parliament's seats must follow the general provisions of Article 14 of the Treaty on European Union. These provisions concern the size of the Parliament, the maximum and minimum number of seats allocated to each Member State, and that the seats must be allocated in line with the principle of degressive proportionality. This principle is currently defined by European Council Decision 2013/312/EU.

Over the years, the Parliament has acknowledged the importance of a permanent system for the fair, objective, and transparent<sup>1</sup> distribution of its seats, before each new European election, in line with the provisions as set out in the Treaties. In this regard, it has sought to find a suitable method by commissioning several studies to examine a number of mathematical models for the allocation of its seats. Nevertheless, a permanent system has not yet been put in place and the composition of Parliament has been determined ahead of each European election by means of a pragmatic solution as a result of a political compromise among Member States and between these and the Parliament at the time.

The current distribution of seats in the Parliament only partially respects the provisions detailing the principle of degressive proportionality in secondary legislation. The current distribution has been adopted as a "pragmatic solution", which was also designed to compensate the imbalances resulting from the current voting system in the Council. In 2013, this pragmatic solution was based on the principle that "nobody gains and nobody loses more than one seat" as a result of the political compromise that was struck. Such a political compromise meant that in some cases Members of the European Parliament from Member States with a smaller population represented more citizens per Member than their colleagues from relatively more populous Member States<sup>2</sup>. This would run counter to the principle of degressive proportionality as it is currently defined.

In its Resolution of 13 March 2013 on the composition of the European Parliament with a view of the 2014 elections<sup>3</sup>, the Parliament undertook to propose a permanent system for the apportionment of its seats. This idea was taken up by the European Council in Article 4 of its Decision of June 2013 establishing the composition of the European Parliament<sup>4</sup> (to which the Parliament gave its consent). This Decision committed the Parliament to present a proposal for the definition of "*...a system which in future will make it possible, before each fresh election to the European Parliament, to allocate the seats between Member States ...*" by the end of 2016. Due to compelling political reasons linked to the British referendum of 23 June 2016, the Parliament could not prepare a proposal for a permanent system before the end of 2016, as required by the European Council Decision.

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<sup>1</sup> Note on the allocation between member states of the seats in the European Parliament [http://www.europarl.europa.eu/RegData/etudes/note/join/2011/432760/IPOL-AFCO\\_NT\(2011\)432760\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2011/432760/IPOL-AFCO_NT(2011)432760_EN.pdf) and In-depth analysis on the "reform of the European Parliament: composition, procedure and legitimacy": [http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/510002/IPOL\\_IDA\(2015\)510002\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/510002/IPOL_IDA(2015)510002_EN.pdf)

<sup>2</sup> French, British and Spanish MEPs represented more citizens than German Members, Dutch MEPs represented more citizens than Romanian Members, Swedish and Austrian MEPs more than Hungarian, Danish had more representatives per Member than Bulgarian and Irish more than Slovak

<sup>3</sup> P6\_TA (2013) 0082

<sup>4</sup> European Council Decision of 28 June 2013 establishing the composition of the European Parliament

The Committee on Constitutional Affairs has been entrusted with the task to propose to Plenary a method for the distribution of seats in Parliament. In order to do so, AFCO has carefully examined several possibilities, scrutinised existing literature, and has heard new proposals from experts that would ensure the sustainable, objective, fair, transparent, and degressively proportional distribution of seats in Parliament.

Inevitably, the political discussion on this file will also be influenced by the submission of UK's withdrawal notification under Article 50 TEU on 29 March 2017, since the exit of a Member State may affect the distribution of seats and could even potentially impact the size of the Parliament. The debate on the suitability of the "usually resident population" instead of the "citizenship" criterion for the calculation of the Member States' population for the purpose of distributing the seats in Parliament could also form part of the discussion even if AFCO has not been mandated to propose such a change. As a European Council Decision on the composition of Parliament cannot change the relevant legislation that outlines the calculation method for a Member State's population, it would follow that this report cannot produce a legislative change on the calculation method of a Member State's population. The focus of this report should remain the finding of a permanent method for the distribution of seats in the Parliament.

### ***What is degressive proportionality?***

Article 14 (2) TEU spells out the guiding principles for the apportionment of seats in Parliament. It sets the maximum size at 751 representatives of Union's citizens, with no Member State allowed to have more than 96 or less than 6 seats. Additionally, the same article requires representation of citizens to be degressively proportional. While the criteria for the overall maximum size and the minimum and maximum number of seats allowed per Member State are straightforward, the term "degressive proportionality" is not clearly defined in the Treaties. Therefore, the Parliament took the initiative and proposed a definition of degressive proportionality in Annex I of its resolution of 11 October 2007 on the composition of the European Parliament and in the Annex to its resolution of 13 March 2013 on the composition of the Parliament with a view to the 2014 elections<sup>5</sup>. The latter was adopted by the European Council in its decision of 28 June 2013<sup>6</sup> and reads as follows:

*"- the ratio between the population and the number of seats of each Member State before rounding to whole numbers must vary in relation to their respective populations in such a way that each Member from a more populous Member State represents more citizens than each Member from a less populous Member State and conversely, but also that no less populous Member State has more seats than a more populous Member State. "*

In simplified terms, "degressive proportionality" should meet two requirements:

- (1) no smaller State shall receive more seats than a larger State,
- (2) the ratio population/seats shall increase as population increases before rounding to whole numbers.

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<sup>5</sup>P6\_TA (2007)0429 and P7\_TA-PROV (2013) 0082

<sup>6</sup> European Council Decision 2013/312 from 28 June 2013 establishing the composition of the European Parliament

It must be noted, that the definition of degressive proportionality as found in the Treaties leaves some leeway as to the interpretation of this term. Therefore, in order to find a fair, balanced and workable mechanism for the distribution of the Parliament's seats that respects the limits as set by the Treaties, it is possible to formulate an interpretation of the term that would best suit the purpose of this exercise.

### ***What are the possibilities for a permanent system for the distribution of seats in the Parliament?***

The nature of degressive proportionality provides the possibility to choose from a plethora of mathematical algorithms that would offer a sustainable, objective and transparent solution for the distribution of Parliament's seats and would satisfy the criteria stipulated in Article 14 (2) TEU. Therefore, political considerations have to be taken into account in order for the Parliament to choose one of the algorithms from among the available solutions.

The following options have been proposed by experts as the most objective, transparent, and balanced solutions for the apportionment of seats in the European Parliament (in chronological order as per their presentation in AFCO), which fully respect all principles stipulated in the Treaties:

- Parabolic method (2007)<sup>7</sup>: The parabolic method is based on a function with three coefficients, whose graph is a parabola of second degree in order to transform the exact quota of a given country into another value, called adjusted quota (which meets the criteria for degressive proportionality).

The application of this method would entail a shift of seats from the medium-sized Member States towards the most and least populous Member States. The full impact on the number of seats could be seen in [Annex I Table 3 of AFCO's draft report on the composition of the European Parliament with a view to the 2014 elections](#)<sup>8</sup>.

- Cambridge compromise (2011)<sup>9</sup>: It apportions seats in the European Parliament in such a way that each Member State receives a base of 5 seats, and the remaining seats are divided between the Member States in proportion to their populations and rounded upwards (subject to the constraints specified in the Treaty - maximum 96 and minimum 6 MEPs).

The application of this method would entail a shift of seats from the medium-sized Member States towards the most and least populous Member States. The full impact on the number of seats could be seen in [Policy Department C note on the allocation between the EU Member States of the seats in the European Parliament from 2011](#)<sup>10</sup>.

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<sup>7</sup> The parabolic method for the allocation of seats in the European Parliament was suggested by Prof. Victoriano Ramirez Gonzalez in 2007.

<sup>8</sup> DRAFT REPORT on the composition of the European Parliament with a view to the 2014 elections (2012/2309(INI))

<sup>9</sup> The Cambridge Compromise is a system elaborated during the Cambridge Apportionment Meeting of 2011 by a consortium of mathematicians including: Prof. Geoffrey Gimmet, Prof. Jean-François Leslier, Prof. Friedrich Pukelsheim, Prof. Victoriano Ramirez Gonzalez, Prof. Richard Rose, Prof. Wojciech Sloczynski, Prof. Martin Zachariassen and Prof. Karol Zyczkowski.

<sup>10</sup> Policy Department C note on the allocation between the EU Member States of the seats in the European Parliament

- Cambridge compromise with power-adjusted populations (also known as the power compromise) (2017) and modified Cambridge compromise (2017)<sup>11</sup>: Essentially the same as the Cambridge compromise but the seats remaining after granting the 5 base seats to all Member States, are distributed proportionately to adjusted population units. These methods are more flexible and degressively proportional than the Cambridge compromise but are slightly less transparent. The two methods (power compromise and modified Cambridge compromise) are based on the exact same principle but the results per Member State could differ slightly by not more than 1 seat.

The application of these methods would entail a shift of seats from the medium-sized Member States towards the most and least populous Member States.

- 0.5-DP method (50% proportional and 50% degressively proportional representation) (2017)<sup>12</sup>: This method allocates half of the seats in proportion to Member States' population (because MEPs might vote taking into account their ideological affiliations) and the other half in proportion to the square root of their populations (because MEPs might also vote taking into account their Member State of election). This method would entail a shift of seats from some of the most populous, some of the least populous and some medium-sized Member States.

The impact of the modified Cambridge Compromise, the power Compromise and the 0.5-DP method on the number of seats per Member State compared to the status quo can be found in the [In-depth analysis on the Composition of the European Parliament](#) produced as an outcome of the Policy Department C Workshop on the same topic, which was held on 30 January 2017<sup>13</sup>.

### ***A link between the distribution of seats in Parliament and the voting rules in the Council?***

The European Parliament has always attached great importance to the need to consider the establishment of a permanent system for the distribution of seats in conjunction with a revision of the voting system in the Council, in order to ensure an inter-institutional balance<sup>14</sup>. In fact, the European Union as a union of states and citizens is committed to respect the equality of Member States (Article 4(2) TEU) and the equality of all its citizens (Article 9 TEU). This essential dual foundation of the Union must have its translation in the composition of its institutions. The current model of composition of the European Parliament, the institutions in which citizens are represented, and of the Council, the institution representing the Member States, is a compromise between those two driving principles. It is thus legitimate to consider whether, in order not to disrupt that balance, modifications of the distribution of power in one of those institutions should entail modifications of the distribution of power of the other.

The double majority system which currently applies in the Council seems to provide an uneven distribution of power not only between Member States, but also between Union

<sup>11</sup> Independently presented at AFCO Workshop on the Composition of Parliament (30 January 2017) by Prof. Pukelsheim (who worked with Prof. Gimmet) and Prof. Sloczynski (who worked with Prof. Zyczkowski).

<sup>12</sup> Presented at AFCO Workshop on the Composition of Parliament (30 January 2017) by Prof. Victoriano Ramirez Gonzalez

<sup>13</sup> [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583117/IPOL\\_IDA\(2017\)583117\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/583117/IPOL_IDA(2017)583117_EN.pdf)

<sup>14</sup> This issue is raised in Parliament resolutions P6\_TA(2007)0429 and P7\_TA-PROV(2014)0082

citizens, - especially detrimental to those from medium-sized Member States. Hence, some academics have been highlighting the need to apply the so-called Jagiellonian Compromise qualified majority system, which would ensure that all Union citizens possess equal power to shape Council's decisions via their governments. The application of the Jagiellonian compromise would be particularly relevant if one of the permanent methods for the allotment of seats in Parliament is chosen, which would result in the shift of seats from medium-sized Member States to the most and the least populous ones. In order to accommodate for such change and effectively counterbalance it, the voting power of the medium sized Member States in the Council would need to be raised in relation to the voting power of the most and the least populous ones, through the Jagiellonian compromise, thus creating a level playing field. Otherwise the mere reallocation of seats could create a power imbalance favouring the most and least populous Member States in both the Parliament and the Council.

The impact on the decision power of Member States if the current voting system is replaced by the Jagiellonian Compromise could also be found in the In-depth analysis on the Composition of the European Parliament produced as an outcome of the Policy Department C Workshop on the same topic held on 30 January 2017.

The EP could thus consider the inter-institutional balance when deciding on a permanent system for allocating its seats, specifically the power distribution between Member States both in the Council and the European Parliament. This issue is alluded to in the European Council Decision (2013/312/EU). It must be noted, however, that a change to the voting rules in the Council would require a change in the Treaties.

### *Conclusions*

This working document is intended to launch the debate on the future composition of Parliament and prepare the Rapporteurs for their work on the draft report. Before deciding on any system for the distribution of Parliament's seats in 2019 and thereafter, however, the following questions would need to be answered:

- 1. How should the principle of degressive proportionality be applied in practice?**
- 2. Which model of the ones herein described would be most suited as a permanent system for the apportionment of seats in the Parliament? Should models be explored other than the ones proposed?**
- 3. Should a link be established between the distribution of seats in Parliament and the voting rules in the Council, taking in to account the European Council Decision (2013/312/EU)?**