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DRAFT REPORT

on a proposal for a modification of the Act concerning the election of the members of the European Parliament by direct universal suffrage of 20 September 1976
(2007/2207(INI))

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on a proposal for a modification of the Act concerning the election of the members of the European Parliament by direct universal suffrage of 20 September 1976 (2007/2207(INI))

The European Parliament,

- having regard to the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to the Council Decision of 20 September 1976, as amended¹,
 - having regard to its previous resolutions on the electoral procedure of the Parliament, in particular its resolution of 15 July 1998²,
 - having regard to its resolution of 11 October 2007 on the composition of the European Parliament³,
 - having regard to the Presidency Conclusions of the European Council on 14 December 2007,
 - having regard to Article 39 of the Charter of Fundamental Rights of the European Union,
 - having regard to the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed on 13 December 2007,
 - having regard to Articles 19(2), 189, 190 and 191 of the Treaty establishing the European Community,
 - having regard to Article 48 of the Treaty on European Union,
 - having regard to Rule 38a and 45(3) of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Legal Affairs (A6-0000/2008),
- A. whereas the Treaty lays down that Parliament 'shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States'⁴,
- B. whereas Parliament has been directly elected every five years since 1979 and has seen its powers and influence increase throughout this period,
- C. whereas Parliament is set to gain very substantial new powers under the Treaty of Lisbon

¹ Council Decision 76/787/ECSC, EEC, Euratom (OJ L 278, 8.10.1976, p. 1.) as modified by Council Decision 93/81 (OJ L 33, 9.2.1993, p. 15.) and by Council Decision 2002/772/EC, Euratom (OJ L 283, 21.10.2002, p. 1.).

² OJ C 292, 21.9.1998, p. 66. (Anastassopoulos Report).

³ OJ C 227 E, 4.9.2008, p. 132 (Lamassoure-Severin Report).

⁴ Article 190(4) TEC.

over legislation, the budget, and the election and scrutiny of the Commission,

- D. whereas, even without agreement on a uniform electoral procedure, there has been a gradual convergence of electoral systems over this period, notably with the universal adoption of proportional representation in 1999, the formal establishment of political parties at EU level¹, and the abolition of the dual mandate²,
- E. whereas the concept of European Union citizenship, formally introduced into the constitutional order by the Treaty of Maastricht in 1993, including the right to participate under certain conditions in European and municipal elections in Member States other than one's own, and the Charter of Fundamental Rights, first proclaimed at Nice in 2000, have also contributed to the gradual development of post-national democracy,
- F. whereas, however, popular recognition of Parliament's important democratic function remains low, political parties at European level are still weak, electoral campaigning remains more national than European, media reportage of Parliament continues to be thin - and the overall turnout in the elections to Parliament has fallen steadily from 63 per cent in 1979 to 45.6 per cent in 2004,
- G. whereas several discrepancies continue to this day among the systems used by Member States for elections to the European Parliament, particularly with respect to the constituencies of MEPs and the use of preferential voting,
- H. whereas the number of EU citizens resident in Member States other than their own who vote in elections to the European Parliament is low, and the number who stand for election is negligible; whereas residency qualifications for the franchise vary among Member States, as does the time after which their own nationals resident elsewhere in the EU are deprived of their right to vote at home,
- I. whereas, according to the case law of the Court of Justice, Member States enjoy substantial discretion in defining who can vote in European parliamentary elections, they are nevertheless bound to respect the general principles of EU law and are precluded from treating different categories of EU citizens who are in the same circumstances in a different way³,
- J. whereas the current proposal of the Commission to facilitate electoral participation by EU citizens resident in Member States other than their own is stalled in the Council; and whereas, in any case, the Commission's proposals do not intend to enable suitably qualified candidates to stand on more than one national list at the same election despite the fact that this is not proscribed by the Act⁴,

¹ Regulation (EC) No 2004/2003 governing political parties at European level and the rules regarding their funding (OJ L 297, 15.11.2003, p. 1.).

² Council Decision 2002/772/EC, Euratom., Article 1(7)(b).

³ Case C-145/04 *Spain v. United Kingdom* [2006] (Gibraltar) and Case C-300/04 *Eman and Sevinger v. College van burgemeester en wethouders van Den Haag* [2006] (Aruba).

⁴ See Council Directive 93/109/EC of 6 December 1993 on the right to vote and stand in elections to the European Parliament for Union citizens residing in a foreign Member State (OJ L 329, 30.12.1993, p. 34), and Parliament's legislative resolution of 26 September 2007 on the proposal for a Council directive amending

- K. whereas there remains a number of other issues that require review in respect of elections to the European Parliament, including the question of thresholds, a minimum age for participation in the elections, the use of electronic polling, gender balance among candidates, the rights of minority-language communities, the date and schedule of the poll, the verification of the credentials of MEPs, the filling of vacancies, and the privileges and immunities of MEPs,
- L. whereas the distribution of parliamentary seats between Member States and the overall size of the House have been critical issues in every Intergovernmental Conference (IGC) on the revision of the Treaties, as well as at each accession of a new Member State,
- M. whereas the Treaty of Lisbon formalises the principle of degressive proportionality in the composition of Parliament and, further, lays down that Parliament 'shall be composed of representatives of the Union's citizens'¹ - as opposed to the current definition of MEPs as 'representatives of the peoples of the States brought together in the Community'²,
- N. whereas Parliament's previously expressed wish to iron out certain anomalies in national electoral practice, and its key proposal to elect a number of MEPs from a transnational constituency list, have gone largely unheeded,
- O. whereas the Council has previously agreed to examine the request of Parliament to revise the 1965 Protocol on Privileges and Immunities once the Members' Statute had entered into force³,
- P. whereas the Council has previously agreed to keep the 1976 Act under review⁴; whereas, however, the last formal review of electoral procedure by Parliament was initiated as long ago as 1998,
- Q. whereas the electoral reform of the European Parliament must uphold the practice of free and fair elections, and must not violate the overall proportionality of the system; the modernised electoral law must be durable and comprehensible; the principles of subsidiarity and proportionality must be fully respected so that uniformity is not imposed for its own sake,
1. Decides to reform its electoral procedure with the aims of enhancing the popularity of Parliament across the Union, of reducing dissimilarities between the electoral procedures of Member States, and of making Parliament more accountable to the citizens it represents;
 2. Proposes, accordingly, that the following reforms should be implemented in time for the

Directive 93/109/EC as regards certain detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (OJ C 219 E, 28.8.2008, p. 193) (Duff Report).

¹ Article 14 TEU (consolidated version).

² Article 189 TEC.

³ Declaration of 3 June 2005 by Representatives of the Member States meeting within the Council.

⁴ Council declaration 6151/02 of 22 February 2002 decided 'that the provisions of this Act should be reviewed before the second elections to the European Parliament held after the entry into force of the amendments to the 1976 Act which are the subject of this Decision' - that is, before 2009.

elections in 2014:-

- (a) With a view to increasing the proximity between the citizen and Members of the European Parliament, territorial constituencies shall be introduced in all those Member States with a population of more than 20 million;
- (b) Member States may establish special constituencies to meet the needs of minority-language communities;
- (c) In order to engage the citizen by enlarging the scope of choice available, Member States will be required to introduce systems of preferential voting whereby the voter may choose from among the candidates on their preferred list ('semi-open lists') rather than just between party lists ('closed lists');
- (d) The number of Members elected from national lists shall be 750, ranging from a minimum of 5 to a maximum of 95 seats per Member State;
- (e) In order to lighten the procedure for the distribution of parliamentary seats between Member States, and to de-politicise the matter, a redistribution of seats will take place, if justified objectively by Eurostat, before every election. The decision will be taken on the strictly demographic basis of resident population and according to the principle of degressive proportionality as proposed by Parliament and accepted in principle by the 2007 IGC¹. The redistribution shall be announced at least twelve months before the end of the mandate;
- (f) In order to enlarge voter choice, strengthen the European dimension of the electoral campaigns and develop the role of European political parties, an additional single constituency will be created of the whole territory of the European Union. The number of Members elected from this transnational list shall be the same as the number of States. The transnational lists shall be composed of candidates drawn from at least a quarter of the States, and will be gender balanced. Each elector shall be able to cast one vote for the EU-wide list in addition to their vote for the national or regional list. Voting will be preferential according to the 'semi-open' list system; and seats will be allocated according to the Sainte-Laguë method²;
- (g) Candidates may stand at the same election both for the EU-wide and the national or regional constituencies; candidates residing officially in more than one Member State, and candidates with dual nationality who are registered on the relevant electoral rolls, shall be eligible to stand on more than one national or regional list at the same election;
- (h) An electoral authority shall be established at EU level in order to regulate the

¹ Declaration No 5 annexed to the Final Act of the IGC. The formula is: '[T]he ratio between the population and the number of seats of each Member State 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'.

² The Sainte-Laguë method uses divisors of 1, 3, 5, 7 etc, and will be used in the 2009 European elections in Germany, Latvia and Sweden. It produces a slightly more proportional result than the D'Hondt method.

conduct of the election taking place from the EU-wide list and to verify the credentials of MEPs elected from that list. The electoral authority shall be composed of one representative of each Member State, and shall be chaired by the Commission;

- (i) With a view to dramatising the EU-wide nature of the election, polling days will be limited to Saturdays and Sundays;
 - (j) Both with a view to encouraging turnout in those Member States where school and university holidays begin in June, and to allow the newly elected Parliament more time to prepare itself for the election of the President of the Commission, the timing of the election will be brought forward from June to May¹;
 - (k) The minimum age to be eligible to vote in the European parliamentary elections shall be 16. The minimum age to be eligible to stand as a candidate shall be 18;
 - (l) Parliament shall verify the credentials of its Members on the basis of the results declared officially by the Member States (including the filling of vacancies) and shall have the powers to rule on any dispute; Parliament shall also be enabled to take action against the withdrawal of a mandate by a Member State where and in so far as the relevant national provisions conflict with the primary law of the European Union;
3. Determines to maximise the use of e-polling techniques in the 2014 elections as long as e-polling is guaranteed to be reliable in both technical and legal terms;
 4. Calls on the Commission and Member States to intensify their efforts to help EU citizens resident in a Member State other than their own to participate in the European elections in their adopted country;
 5. Invites the Member States to harmonise their regulations concerning the removal of the franchise from nationals residing in other Member States for the purposes of national parliamentary elections; encourages like-minded Member States to enhance their cooperation on a bilateral basis by adopting reciprocal rights to vote in national elections;
 6. Prompts the Parliament to be elected in June 2009, in light of the then status of the Treaty of Lisbon, to reflect on whether the basis for Parliament's composition from 2014 onwards should be based, as at present, on resident inhabitants or, instead, on the number of EU citizens of a given nationality resident in the EU;
 7. Requests the Commission to submit to the Council proposals for the amendment of the Treaties necessary to give effect to these reforms, and, subsequently, to propose the necessary implementing measures for the reforms to enter into force in good time before the European parliamentary elections in 2014;
 8. Urges the IGC on electoral reform also to amend the 1965 Protocol on Privileges and Immunities of the European Communities with a view to establishing a uniform and

¹ As proposed in European Parliament resolution of 1 December 2005 on guidelines for the approval of the Commission, OJ C 285, 22.11.2006, p. 137 (Duff Report).

supranational regime for Members of the European Parliament¹;

9. Instructs its President to forward this resolution to the Council and Commission, and the parliaments and governments of the Member States.

¹ European Parliament resolution of 6 July 2006 on modification of the Protocol on Privileges and Immunities (OJ C 303 E, 13.12.2006, p. 830), in which Parliament confirmed its intention to use the Members' Statute as a partial basis for the foreseen revision (European Parliament decision of 3 June 2003 on the adoption of a Statute for Members of the European Parliament, OJ C 68 E, 18.3.2004, p. 115).