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## **WORKING DOCUMENT**

Explanatory statement for a draft report on the seats of European Union  
Institutions

Committee on Constitutional Affairs

Rapporteurs: Ashley Fox and Gerald Häfner

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*United in diversity*

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## 1. Introduction

The question of the location of the seats of European institutions is not a new one. Since the creation of the predecessors of today's institutions in 1952 the locations chosen for the seats have been the subject of delicate political compromise.

This report will, however, primarily focus on the seat of the European Parliament, since it plays a distinct and unique role as the only institution that is directly elected by and accountable to European citizens – and since its role has undergone the most significant changes amongst all institutions since its creation.

Given the increase in competences and responsibilities, particularly with the entry into force of the Lisbon Treaty, making the EP the fully equal co-legislator of the Council, the EP has significantly changed its working style and methods. Questions of inner organisation such as the EP's calendar are *de jure* linked to the seat by the inflexible formulation in Protocol 6. And the court decisions on changes in the EP's calendar in 2012 show that the EP has exhausted its manoeuvrability within the current legal framework.

The rapporteurs have therefore come to the conclusion that, in order to fulfil its function deriving from the treaties and the expectations of its electorate – Parliament needs the right to organize itself in a modern and appropriate way – and therefore should initiate an ordinary treaty revision procedure in order to amend Article 341 and Protocol 6, granting Parliament the right to decide itself on matters relating to its internal organisation and calendar, and hence the question of its seat.

## 2. The current legal framework of the seats of EU institutions

According to Article 341 TFEU the seats of the institutions are "determined by common accord of governments of member states". MS have done so in Protocol 6 annexed to the treaties. For the EP they determined Strasbourg as the seat and Brussels and Luxembourg as working places. In 1997 the ECJ ruled (C-345/95) that the right of MS to determine the seat implies that they can also fix the number of plenary sessions to be held in Strasbourg.

However, the treaties also state that the EU is a representative democracy with the citizens being directly represented at Union level in the European Parliament (Article 10). The EP exercises, jointly with the Council, the legislative and budgetary function in the Union (Article 14). It can adopt its own rules of procedure (Article 232 TFEU) and determine the length of plenary sessions. The provisions on the seat and the calendar in Protocol 6 are the only provisions in the treaties constraining EP's autonomy and inner workings, thereby contradicting the general logic of the treaties.

In the 1997 and 2012 ECJ decisions regarding the EP, the court re-affirmed that the location of the seat is not to hinder the well-functioning of the EP and admitted the disadvantages and costs engendered by the plurality of working locations, "cost rendered more onerous in an economic crisis" according to advocate general Mengozzi. The court also confirmed that any improvement of the current situation needs a treaty change and thus the consent of MS.

The question of the seat, however, is not a legal question only, but also one of democratic legitimacy and accountability. It has become increasingly difficult to explain the current arrangements to European citizens and for the EP to fully exercise its democratic functions.

### **3. The historic development of the EP**

Since its creation, the European Parliament has developed from an assembly with purely consultative function into a fully-fledged parliament that, since the Lisbon Treaty, is the equal co-legislator of the Council.

When the predecessor of the EP (Common Assembly of the European Coal and Steel Community) was created in 1952, it was not called "Parliament", did not have any legislative competence and was not directly elected. For practical reasons it gathered in the existing facilities of the Parliamentary Assembly of the Council of Europe in Strasbourg; an arrangement that continued until 1999, when the EP moved into its own (current) buildings.

The Treaty of Rome formally granted MS the competence to determine the location of the seat of institutions. Until 1992, MS could only agree on "preliminary working locations". For the European Parliament the choices of Luxembourg, Strasbourg and Brussels emerged, despite Parliament's recommendation from the very beginning (21 June 1958) that it should be located beside the Council and the Commission.

Shortly after its first direct election in 1979, Parliament decided to act on the seat question and concentrated its plenary sessions in Strasbourg (previously split between Luxembourg and Strasbourg) and committee sessions in Brussels.

Despite these efforts and Parliament's objections, MS agreed on the locations of institutions and fixed the current status quo during the Edinburgh Summit of 1992. The decision was then raised to the level of primary law and annexed to the treaties as Protocol 6 with the Treaty of Amsterdam in 1997.

In 1999, 250 MEPs (40% at the time) signed a letter condemning the arrangement. In the following year, a resolution was adopted with 401 votes in favour, and only 77 against, which suggested to amend the treaties and to give the EP the right to decide on its seat by absolute majority. This suggestion was ignored by MS during the Intergovernmental Conference that followed.

Since then, the EP, via numerous reports and declarations, as well as 1.27 million European citizens who signed a petition, have demanded change of the current situation, without any reaction by MS.

Meanwhile, the entry into force of the Lisbon Treaty was the latest step in the complete transformation of the nature of the EP from a consultative body with seconded members to a directly elected sovereign Parliament, vested with legislative and budgetary functions, that is the fully equal co-legislator of the Council.

### **4. EP should be granted greater autonomy over its own working procedures, calendar and seat**

Given this increase in power and responsibility the working of the Parliament has changed quite significantly, particularly since the current calendar and seat arrangements were fixed in 1992.

While the number of plenary sessions has steadily decreased since 1999, the workload in committees has increased. The number of co-decision procedures (now ordinary legislative procedures) has increased from 165 during the 1993-1999 legislature to 454 from 2004-2009.

Parliament has also changed in size: from 78 seconded members to 754 directly elected members today. Reflecting the increase in legislative activity and responsibility the 377% increase in Brussels statutory staff from 1993 to 2013 (from 1,180 to 5,635) far exceeds the 48% increase in MEPs during the same period.

The changing role of the EP is also reflected in the 150% increase of inter-institutional meetings (from 16,000 in 2009 to an estimated 40,000 in 2013). Constant negotiations and trilogues, both formal and informal, with Commission, Council and individual MS are now part of the ordinary legislative process and have led to a sharp increase in the number of first reading agreements from 28% during the 1999-2004 legislature to 72% from 2004-2009. Geographic proximity is even more crucial, given Parliament's increased responsibilities and powers in terms of democratic control of other EU institutions.

Under these changed conditions, the structure of the EP calendar that pre-dates most changes in Parliament's role, no longer corresponds to the needs of a modern Parliament and should be revised to be more effective, flexible and more attractive to MEPs.

The counterparts of the Parliament, the Council and the European Council, have already acted and concentrated their work in Brussels. European Council meetings that were previously all held in the country of the rotating presidency are now exclusively held in Brussels. This is particularly significant given that the number of Summits has more than doubled since 2008.

The geographic distance between the official seats of the co-legislative bodies of 435km is unique in the world. But it does not only isolate the EP from Commission and Council, but also from other stakeholders, NGOs, civil society organisations, MS representations and one of the world's largest international journalistic communities that are all in Brussels.

## **5. Financial, environmental, organisational and logistical impact of the current arrangements**

In times of budgetary austerity in many MS, the EP should act accordingly and eliminate wasteful spending. The current seat arrangement of the EP constitutes an area where important savings are possible.

The additional costs resulting from the geographic dispersion of the EP have been conservatively estimated to range between €169 and €204 million, or between 15-20% of the EP's annual budget. If Parliament were to reduce its geographic dispersion, the costs of some 3300 missions could be saved every month. This would equate to 78% of all missions by EP statutory staff being cut.

Given the necessary transport of some 5000 MEPs, staff and officials, as well as 8 large trucks with documents, for every plenary session, the current arrangement also incurs unnecessary environmental, organisational and logistical costs - additional CO2 emissions are estimated to amount to at least 19,000 tonnes. For the large majority that travels from Brussels to Strasbourg, an entire working day, or about 5% of total working time, is lost travelling.

For MEPs travelling from their constituencies to Strasbourg, the lower number of flight and train connections in comparison to Brussels constitutes additional costs, stress and time spent in transit. The lower number of hotel rooms in Strasbourg means that prices multiply by an average of 2.3 during session weeks.

The Strasbourg buildings of the EP are currently unused for 89% of the time (used for only 42

days a year), yet need to be heated, staffed and maintained for the entire year. The current working arrangement also means that all 754 MEPs and 160 Commission officials have one office in Brussels and one in Strasbourg. Some 150 EP officials even have three offices: one in Luxembourg, one in Brussels, and one in Strasbourg.

## **6. A roadmap towards treaty change**

The current legal framework governing the seats of EU institutions imposes organisational constraints on the European Parliament, that do not allow for a modern and efficient working structure, important savings in times of austerity and they do not allow for the full and proper exercise of Parliament's democratic functions. The calendar cannot be adapted because its general structure is imposed by Protocol 6.

Since the EP has exhausted its manoeuvrability to improve its inner workings and calendar within the current legal framework, the rapporteurs suggest to initiate an ordinary treaty revision procedure under Article 48 TEU to amend Article 341 and Protocol 6, in order to grant parliament the right to autonomously decide on its internal organisation, calendar, and hence the question of its seat.

During this process, Parliament must allow for sufficient time for debate, reflection and proper assessment of all possible alternatives, followed by an orderly implementation of the decision. Concerning the seats of the other EU institutions the rapporteurs, although aware of the context, do not recommend any changes.

Any alternative solution to the current arrangement that Parliament might decide on should take into account the economic impact that parliament has on its different working locations, the historical significance that the choice of location of the seat of the EP has, the historic agreement between MS on the location of all EU institutions, the opinions of local populations of all cities concerned as well as the opinion of European Citizens in general.