

Committee on Constitutional Affairs
The Secretariat

Interparliamentary Committee Meeting *

THE EUROPEAN PARLIAMENT'S RIGHT OF INQUIRY

THE REVISION OF THE EU ELECTORAL LAW

THE FUTURE INSTITUTIONAL EVOLUTION OF THE EUROPEAN UNION

Tuesday, 29 November 2016, 10.00 – 12.30 and 15.00 – 17.30

**European Parliament, Brussels
Altiero Spinelli (ASP) building, room A5G-3**

Background Notes

1. EUROPEAN PARLIAMENT'S RIGHT OF INQUIRY

Rapporteur: Ramón Jáuregui Atondo

See: Right of inquiry & special committees - In-depth analysis:

EPRS | European Parliamentary Research Service

June 2016 — PE 582.007

<http://www.eprs.sso.ep.parl.union.eu/lis/lisrep/09-Briefings/2016/EPRS-IDA-582007-EP-committees-of-inquiry-and-special-committees-FINAL.pdf>

Latest Developments:

In a letter of 3 September 2015 from the Chair of Coreper, the Luxembourg Presidency of the Council placed special emphasis on the Council's willingness to engage with Parliament on this file, and listed in an annex the Council's main legal and institutional concerns about Parliament's proposal. It was also stressed that future negotiations must address these problematic and fundamental issues of a legal and institutional nature.

The main outstanding issues raised by the Council in its letter of 3 September 2015 with regard to Parliament's proposal concern:

- incompatibilities (sub judice clause) (Article 5);
- the public nature of proceedings (Article 6);
- confidentiality (Article 8);
- the conduct of investigations (Article 12);

- on-the-spot investigations (Article 13);
- requests for documents (Article 14);
- witnesses (Article 15)
- officials and other servants of the Union and of the Member States (Article 17); and
- sanctions (Article 19).

As a result of discussions held by the rapporteur Mr Jáuregui Atondo at EP Shadow Rapporteurs level, the Committee on Constitutional Affairs, at its meeting of 15 June 2016, agreed to continue the discussion with the Council and the Commission by producing a non-paper that addresses the concerns expressed by the Council in the letter of 3 September 2015 with political arguments and describes possible solutions for the way forward.

In fact, last 30 June, the Chair of the Constitutional affairs committee Ms Hübner sent a letter to the Council Presidency, with attached the mentioned non-paper of the Committee on Constitutional affairs on a possible way forward concerning the European Parliament's proposal.

At a later stage the three Institutions agreed to hold informal meetings between the three Legal Services in order to allow them to evaluate possible drafting options.

2. THE REVISION OF THE EUROPEAN UNION ELECTORAL LAW

Co-Rapporteurs Danuta Hübner and Jo Leinen

See: The Reform of the Electoral Law of the European Union - In-depth analysis
European Added Value Assessment accompanying the legislative own-initiative Report
EPRS | European Parliamentary Research Service

September 2015 – PE 558.775

http://www.eprs.sso.ep.parl.union.eu/lis/lisrep/13-EPRS-publications/2015/EPRS_IDAN_558775_Reform_EU_electoral_law.pdf

Summary of the EP Proposal:

In order to enhance the democratic dimension of European elections, bridge the gap between the European institutions and the electorates, reinforce the concept of citizenship of the Union, improve the functioning of the European Parliament and the governance of the Union and strengthen the principles of electoral equality and equal opportunities, the European Parliament, on 11 November 2015, made use of its right enshrined in Article 223 (1) of the Treaty on the Functioning of the European Union (TFEU) to initiate a reform of the European Electoral Act¹.

The Co-rapporteurs, Danuta Maria Hübner and Jo Leinen, in their report on the “proposal for amendment of the Act of 20 September 1976 concerning the election of the Members of the European Parliament by direct universal suffrage” examined a broad number of potential reform measures in view of enhancing the democratic dimension of European elections. In the final report

¹ Act concerning the election of the members of the European Parliament by direct universal suffrage, OJ L 278, 8.10.1976, p.5, amended by Council Decision of 25 June 2002 and 23 September 2002 amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Decision 76/787/ECSC, EEC, Euratom, OJ L 283, 21.10.2002, p. 1.

approved by Plenary on 11 November 2015, the following proposals for amendments to the 1976 Electoral Act have been transmitted to the Council:

- Ensuring that political parties participating in elections to the European Parliament observe democratic procedures and transparency in selecting their candidates for those elections, and ensuring that the lists of candidates respect gender equality;
- Improving the visibility of European political parties by placing their names and logos on ballot papers, and where possible on posters used in European elections campaigns, as well as on television and radio campaign broadcasts;
- Introducing a common deadline of at least twelve weeks before the start of the electoral period for the establishment of lists of candidates at national level;
- Introducing a deadline of at least twelve weeks before the start of the electoral period for the nomination of candidates for the position of Commission president by the European political parties;
- Introducing an obligatory minimum threshold, ranging between 3% and 5%, for the allocation of seats in single-constituency Member States and constituencies in which the list system is used and which comprise more than 26 seats;
- Establishing a uniform closing of polling in all Member States by 21:00 hours CET on the Sunday of elections and a simultaneous communication of the first projections of the results in all Member States;
- Introducing a common deadline of eight weeks before the first election day for finalisation of the electoral roll, and of six weeks for information concerning Union citizens who are nationals of more than one Member State and Union citizens residing in another Member State to be exchanged with the national single authority in charge of the electoral roll;
- Introducing the right to vote in the European elections for all Union citizens living outside the EU;
- Establishing the possibility of introducing electronic and internet voting as well as voting by post mail;
- Giving Parliament the right to determine the electoral period for the elections.

Additionally, the Parliament recommended that Member States should consider ways to harmonise the minimum age of voters at 16 in order to further enhance electoral equality among Union citizens. It also encouraged Member States to facilitate the participation of European political parties and their lead candidates in electoral campaigns. Furthermore, the Parliament called for better harmonization of Member States' administrative systems and urged Member States to work towards finding an agreement on a common voting day for European elections. Parliament's proposal further highlighted the importance of an adequate legal framework that ensures the highest standards of informative, fair and objective media coverage during the election campaigns, particularly from public service broadcasters. Lastly, the Parliament also encourages Member States to take measures to promote adequate representation of ethnic, linguistic and other minorities in European elections.

Parliament's proposal is now under appreciation in the Council, which decides unanimously after obtaining the consent of the Parliament. The provisions as adopted in accordance with that procedure will have to be approved by the Member States, in line with their respective constitutional requirements.

3. WHAT CONSTITUTIONAL PATHS FOR THE FUTURE DEVELOPMENT OF THE UNION (DEFENCE, ECONOMIC GOVERNANCE, ETC.)?

The European Union is facing unprecedented challenges, such as the refugee crisis, the foreign policy challenges, notably in the immediate neighbouring countries, the fight against terrorism, globalisation, climate change, the consequences of the financial and economic crisis and its social impact in several Member States.

These issues cannot be tackled by Member states individually but need a collective response by the Union.

In this context the AFCO committee is presently dealing with two reports on the future of the Union, in a two-step approach, looking at the current and future constitutional framework of the European Union and we very much value an exchange of views:

3a. Improving the functioning of the European Union building on the potential of the Lisbon Treaty (2014/2249(INI))

Co-Rapporteurs: Mercedes Bresso (S&D), Elmar Brok (EPP)

During the joint Interparliamentary Committee Meeting (ICM) that took place on 19 November 2015, the two co-rapporteurs of the INI report on "Improving the functioning of the European Union building on the potential of the Lisbon Treaty", Mercedes Bresso (S&D - IT) and Elmar Brok (EPP-DE) presented their working document.

Later on 14 January 2016, the committee held an exchange of views on their draft report.

The deadline for amendments to the Bresso/Brok draft report was set for 16 February: 888 amendments have been tabled. The report is scheduled to be voted on 8 December together with the draft report by Mr Verhofstadt on the “**Possible evolutions and adjustments of the current institutional set-up of the European Union**”.

Content of the Draft Report:

Nearly six years after its entry into force, the provisions of the Lisbon Treaty have not been exploited to their full potential. In their draft report the rapporteurs are examining the yet unused possibilities offered by the Lisbon Treaty to tackle the challenges that the Union is currently facing, by adapting its institutional structure, enhancing its democratic accountability, deepening the Economic and Monetary Union, completing the Internal Market and furthering joint efforts in the fields of External Action and Justice and Home Affairs.

The rapporteurs touch upon a wide range of issues such as:

- the benefits of the Community method over intergovernmental decision-making and possibilities offered by the Treaties notably by the different ‘passerelle clauses’;
- the role and competences of the different EU institutions and bodies and national parliaments and how the decision-making processes and cooperation can be rendered more democratic, effective and transparent;

- the process of electing the Commission President;
- further reform to be brought to the institutional structure of the EMU, enhancing its democratic legitimacy, as well as recalling Parliament's proposals for the adoption of a convergence code to create a more effective framework for economic policy coordination and mentioning also the need for the establishment of a fiscal capacity for the eurozone, (which is the subject of a specific EP report);
- possibilities to increase the effectiveness, coherence and accountability of the Common Foreign and Security Policy, notably through the use of the provisions that allow for decision-making in Council by qualified majority voting;
- progressive steps to be taken towards a common defence policy and eventually a common defence, pointing inter alia to the provisions on Permanent Structured Cooperation, the setting up of a permanent civilian and military headquarter and the need for a comprehensive EU-NATO political and military partnership;
- strengthening cooperation in the fight against terrorism, notably through a structured exchange of information, and in asylum and immigration policy;

3b. Possible evolutions and adjustments of the current institutional set-up of the European Union (2014/2248(INI))

Rapporteur: Guy Verhofstadt (ALDE)

Content of the Draft Report:

In his draft report, Mr. Verhofstadt underlines that the various crises have “demonstrated the Union's incapacity to respond effectively and quickly”. Furthermore, he believes “it is now time to address the shortcomings of the governance of the European Union by undertaking a comprehensive, in-depth reform of the Lisbon Treaty”.

On 12 July 2016 Guy Verhofstadt presented in committee his draft report comprising proposals for a comprehensive reform to the current EU legal setting and focusing on the following issues:

- Ending “Europe a la carte” (touching upon “variable geometry”) and the development and definition of a partnership to set up a ring of partners around the EU for states who cannot or will not join the Union with countries such as the United Kingdom, Switzerland, Norway, Turkey and Ukraine;
- The withdrawal of the UK from the European Union;
- a New Economic governance (touching upon a convergence code, a fiscal capacity, a debt instrument, the Fiscal compact, the ESM, a treasury facility, an EU Finance Minister, the role of the ECB);
- New challenges (energy, migration, terrorism);
- Strengthening Foreign Policy (an EU Foreign Minister, CFSP, European Defence Union);
- More democracy, transparency and accountability (Commission size, lead candidates to become President of the European executive, European party lists, reallocation of seats, a Council of the States, the composition of Council configurations, Eurozone arrangements, the role of national parliaments, the right of legislative initiative, the EU budget and budget control, Parliament's Right of Inquiry, the treaty ratification procedure);

- Constituent process (treaty amendment, convention).

The above proposals relate to broad long-term institutional issues.

The deadline for amendments to the Verhofstadt draft report was set for 20 October and 1039 amendments were tabled.

Both reports are scheduled to be voted on Thursday 8 December, in AFCO (in an extraordinary meeting in Brussels) so as to allow a plenary vote together with the ECON-BUDG report on a “budgetary capacity for the Eurozone” (rapporteurs Pervenche Berès and Reimer Böge).