

EUROPEAN PARLIAMENT

1999



2004

Session document

30 May 2002

FINAL
A5-0212/2002

RECOMMENDATION

on the draft Council decision amending the Act concerning the election of representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (8964/2002 - C5-0225/2002 - 2002/0807(AVC))

Committee on Constitutional Affairs

Rapporteur: José Maria Gil-Robles Gil-Delgado

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
PROCEDURAL PAGE	4
DRAFT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	8

PROCEDURAL PAGE

By letter of 23 May 2002 the Council requested Parliament's assent, pursuant to Article 190(4) of the EC Treaty, on the draft Council decision amending the Act concerning the election of representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom) of 20 September 1976 (8964/2002 - C5-0225/2002 - 2002/0807(AVC).

At the sitting of 29 May 2002 the President of Parliament announced that he had referred this draft decision to the Committee on Constitutional Affairs as the committee responsible.

At its meeting of 26 March 2002 the Committee on Constitutional Affairs had appointed José María Gil-Robles Gil-Delgado rapporteur.

It considered the draft recommendation at its meetings of 26 March, 23 May and 28 May 2002.

At the last meeting it adopted the draft legislative resolution by 21 votes to 2, with 1 abstention.

The following were present for the vote: Giorgio Napolitano, chairman; Jo Leinen and Ursula Schleicher, vice-chairmen; José María Gil-Robles Gil-Delgado, rapporteur; Teresa Almeida Garrett, Margrietus J. van den Berg (for Enrique Barón Crespo), Georges Berthu, Jens-Peter Bonde, Jean-Louis Bourlanges (for François Bayrou), Carlos Carnero González, Richard Corbett, Giorgos Dimitrakopoulos, Andrew Nicholas Duff, Lone Dybkjær, Sylvia-Yvonne Kaufmann, Hanja Maij-Weggen, Iñigo Méndez de Vigo, Gérard Onesta, Jacques F. Poos (for Jean-Maurice Dehousse), Reinhard Rack (for The Lord Inglewood), Dimitris Tsatsos, Johannes Voggenhuber, Karl von Wogau (for Daniel J. Hannan) and Joachim Wuermeling (for Antonio Tajani).

The recommendation was tabled on 30 May 2002.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the draft Council decision amending the Act concerning the election of representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (8964/2002 - C5-0225/2002 - 2002/0807(AVC))

(Assent procedure)

The European Parliament,

- having regard to the draft Council decision (8964/2002 - 2002/0807(AVC),
 - having regard to Article 39 of the Charter of Fundamental Rights of the European Union on the right to vote and stand in elections to the European Parliament,
 - having regard to Article 21(3) of the ECSC Treaty,
 - having regard to Article 108(3) of the Euratom Treaty,
 - having regard to Article 190(4) of the EC Treaty,
 - having regard to the Council's request for assent pursuant to Article 190(4) of the EC Treaty (C5-0225/2002),
 - having regard to its resolution of 15 July 1998 on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament and paragraph 7 of that resolution concerning 'the objective of equality between men and women'¹,
 - having regard to its resolution of 18 January 2001 on the report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the implementation of Council Recommendation 96/694 on the balanced participation of women and men in the decision-making process²,
 - having regard to Rule 86 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs (A5-0212/2002),
- A. whereas the Council's draft decision incorporates, with two exceptions, and often with a different wording, the key points of the proposal drawn up by Parliament,

¹ OJ C 292, 21.9.1998, p. 66.

² OJ C 262, 18.9.2001, p. 248.

- B. whereas the Convention ought to examine issues closely bound up with the election of MEPs which cannot be settled under the revised Act, in particular the updating of the Protocol on privileges and immunities,
- C. whereas the wording proposed by the Council concerning the introduction of territorial constituencies provides for constituencies which reflect specific national situations, on which basis the Member States may establish constituencies for elections to the European Parliament or subdivide their electoral areas in a different manner, without affecting the essentially proportional nature of the voting system, and whereas the interpretation of that wording must not, by virtue of the imposition of electoral thresholds in connection with a territorial division, undermine the proportional representation of political families at Member State level,
- D. regretting that the single European constituency which Parliament proposed for the election of Members to 10% of its seats will not be introduced in time for the next European elections, and emphasising the need to introduce that single constituency when the provisions of the 1976 Act provided for in Annex B are reviewed, since it is likely that the impact of the next enlargement will be known when that review is carried out,
- E. whereas that review should respect the principle of equality between men and women with a view to guaranteeing balanced representation of the two sexes,
- F. whereas, in future election campaigns, the European political parties should announce the candidate for the Commission Presidency whom they propose to have elected or, as the case may be, invested by the European Parliament, which would enable the process of Europeanising election campaigns to be speeded up and, above all, enable the public to grasp more effectively the issues at stake in the election,
- G. regretting that the Council failed to reach agreement on a specific date for the European elections, a decision which might have substantially increased the turnout, and taking the view that fresh negotiations on that matter should be opened, given that the proposed text extends the period earmarked for the European elections, clearing the way for them to be held in May, in keeping with Parliament's wishes,
- H. whereas, when the provisions of the 1976 Act are implemented, and in the context of their own electoral laws, the Member States should expand the range of possible methods of casting votes, for example to include postal voting or voting by electronic means, with a view to increasing the turnout in European elections,
- I. whereas the Council's draft thus represents an acceptable compromise, as things stand, whereas it represents a step towards a more uniform electoral system, and whereas it is supplemented by a declaration by the United Kingdom guaranteeing enforcement of the judgment handed down by the European Court of Human Rights in the Matthews case, on the right to vote in European elections of the electorate in Gibraltar, and a declaration by the Council and Commission noting that declaration, an arrangement which solves a delicate problem and one which Parliament notes with satisfaction,

1. Gives its assent to the amendment of the Act concerning the election of the representatives of the European Parliament;
2. Instructs its President to forward its position to the President of the Council, the President of the Commission and the governments of the Member States.

EXPLANATORY STATEMENT

1. Originally, the EC Treaty, in what was then Article 138(3), indicated that 'the European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States'.
2. Since 1960, when a draft convention on the election of the European Parliamentary Assembly by direct universal suffrage was adopted unanimously (rapporteurs: Mr Battista, Mr Dehousse senior, Mr Faure, Mr Schuijt and Mr Metzger), Parliament has drawn up a number of reports (rapporteurs: Mr Patijn in 1975, Mr Seitlinger in 1982, Mr De Gucht in 1991 and 1993) on which the Council has taken no action.
3. In an effort to overcome the impasse, the Treaty of Amsterdam made the following addition to Article 138(3) of the EC Treaty: '[...] uniform procedure in all Member States or in accordance with principles common to all Member States'. This article has now become Article 190(4) of the Treaty
4. In response to this amplified wording of the article in question, and on the basis of a report by its Committee on Institutional Affairs (A4-0212/98; rapporteur: Mr Georgios Anastassopoulos), at its July 1998 part-session Parliament adopted a resolution on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament approving the draft ad hoc Act annexed to that resolution.
5. After lengthy discussions and negotiations, the Council has finally reached agreement on a draft decision amending the Act concerning the election of representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976, which also incorporates: (a) a declaration by the United Kingdom guaranteeing enforcement of the judgment of the European Court of Human Rights in the Matthews case¹ on the right to vote in European elections of the electorate in Gibraltar; (b) a statement by the Council and Commission noting that declaration; and (c) a Council statement (Annex B) in the form of a clause setting a date for the review of the provisions of the amended Act.
6. The Council has forwarded the text in question to Parliament. It incorporates into the 1976 Act most of Parliament's proposals, in particular:
 - (i) the principle of proportional representation, with the option of voting on the basis of a preferential list system in any Member State,
 - (ii) incompatibility between the office of member of a national parliament with that of Member of the European Parliament (with derogations for the United Kingdom and Ireland until the 2009 elections),
 - (iii) the option open to each Member State of setting a ceiling on candidates' campaign

¹ European Court of Human Rights, Matthews v United Kingdom (Complaint No 24833/94), judgment handed down in Strasbourg on 18 February 1999.

- expenses,
- (iv) the option open to each Member State of establishing territorial constituencies without affecting the essentially proportional nature of the voting system (although Parliament has made such a system compulsory for those Member States whose population exceeds 20 million).
7. The article in Parliament's draft Act stipulating that 10% of the total number of seats in Parliament would be filled by means of list-based proportional representation relating to a single constituency comprising the territory of the European Union Member States with effect from the 2009 European elections has not been incorporated into the Council text. Your rapporteur feels that the review of the Act, which must take place before the 2009 elections, could clear the way for the introduction or the rejection once and for all of that European list in the light of the impact of the enlargement on the representation of the Member States, an impact which should not be underestimated.
8. Your rapporteur also takes the view that the lack of such a single list could in part be offset if the parties were to decide to focus their European election campaigns on the name of their candidate for the Commission Presidency, a nomination to be made by the Council to Parliament, an arrangement which would enable the public to grasp more effectively the issues at stake in the election and would probably improve the turnout. He is proposing, therefore, that this point should be incorporated into the recitals forming part of the resolution.
9. In the resolution approving its draft Act, Parliament proposed that European elections should be held in May, so as to maximise the turnout by avoiding the school summer holidays which start at the beginning of June in several Member States. Having failed to secure the unanimous approval of the Member States for a specific date, the Council has not incorporated this proposal into its text, although it has, in the new Article 11 which would replace Article 10 of the Act, broadened the time-frame in which the electoral period can be fixed, which might make it possible, in the future, to bring the elections forward to May should a date be found which is acceptable to everyone.
10. In its resolution, Parliament also drew attention to the objective of equality between men and women in the lists of candidates for European elections, emphasising that the achievement of that objective is primarily a matter for the political parties. Your rapporteur is proposing that a reference to that objective and that responsibility should once again be incorporated into the recitals forming part of the resolution giving Parliament's assent.
11. In addition, the Council is proposing that the 1976 Act should be brought into line with the changes made by the Treaties adopted since that date in the Union's institutions and bodies and that other useful clarifications should be incorporated.
12. In the light of the analysis set out in the preceding paragraphs, your rapporteur takes the view that the Council's draft represents an acceptable compromise as things stand, that it constitutes a step, towards a more uniform electoral system, and that the Belgian Presidency should be congratulated on having secured this compromise.

13. Those congratulations must also be addressed to the Spanish Presidency, which succeeded in removing the final obstacle to a compromise by reaching an agreement with the United Kingdom on the enforcement of the judgment handed down by the European Court of Human Rights in the Matthews case on the right in European elections of the electorate in Gibraltar, whose inhabitants will now finally be able to take part in European elections.
14. These considerations prompt your rapporteur to recommend to Parliament that it give its assent to the Council's draft, thereby overcoming an impasse which has resisted its repeated efforts over many years.