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REPORT

on the draft protocol amending Protocol No 36 on transitional provisions concerning the composition of the European Parliament for the rest of the 2009-2014 parliamentary term: the European Parliament's opinion (Article 48(3) of the EU Treaty)
(17196/2009 – C7-0001/2010 – 2009/0813(NLE))

Committee on Constitutional Affairs

Rapporteur: Íñigo Méndez de Vigo

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* alerts the relevant departments to parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act which the draft act seeks to amend includes a third and fourth line identifying respectively the existing act and the provision in that act affected by the amendment. Passages in a provision of an existing act that Parliament wishes to amend, but the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...].

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on the proposal for a Council regulation amending Protocol No 36 on transitional provisions concerning the composition of the European Parliament for the rest of the 2009-2014 parliamentary term: the European Parliament's opinion (Article 48(3) of the EU Treaty)
(17196/2009 – C7-0001/2010 – 2009/0813(NLE))**

The European Parliament,

- having regard to the letter from the President of the European Council to the President of the European Parliament of 18 December 2009, concerning the amendment of Protocol No 36 on transitional measures (17196/2009),
 - having regard to Article 48(3), first subparagraph, of the Treaty on European Union, pursuant to which the European Council consulted Parliament (C7-0001/2010),
 - having regard to Protocol No 36 on transitional provisions, annexed to the Lisbon Treaty,
 - having regard to Article 14(2) and (3) of the Treaty on European Union,
 - having regard to the Act of 20 September 1976 concerning the election of the representatives of the European Parliament by direct universal suffrage (hereinafter ‘the 1976 Act’),
 - having regard to its resolution of 11 October 2007 on the composition of the European Parliament¹,
 - having regard to the conclusions of the European Council meetings of 11 and 12 December 2008, 18 and 19 June 2009 and 10 and 11 December 2009,
 - having regard to Rules 11(4) and 74a of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs (A7-0115/2010),
- A. whereas Article 14(2) of the EU Treaty, as amended by the Lisbon Treaty, provides that the European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament,
- B. whereas, with a view to the entry into force of the Lisbon Treaty and on the basis of Protocol No 36 thereto, on 11 October 2007 the European Parliament submitted, by its aforementioned resolution set out in the Lamassoure-Severin report, a draft European Council decision establishing the distribution of seats within Parliament,

¹ OJ C 227 E, 4.9.2008, p. 132.

- C. whereas, at the time the Lisbon Treaty was signed, the European Council had not taken a formal decision on the composition of the European Parliament, but had agreed to the proposal set out in the aforementioned resolution, after raising the total number of MEPs to 751 instead of the 750 initially envisaged,
- D. whereas the agreement reached in the European Council increased the total number of MEPs by 15 (from the 736 stipulated in the Nice Treaty to 751), with 18 additional seats to be distributed among 12 Member States, while Germany was allocated three fewer seats in view of the maximum number laid down in the EU Treaty,
- E. whereas, since the Lisbon Treaty had not entered into force before the 2009 European elections, the latter were held in accordance with the provisions of the Nice Treaty, and whereas the European Parliament currently has 736 Members,
- F. whereas, given that the Lisbon Treaty finally entered into force on 1 December 2009, the 18 additional MEPs from the 12 Member States concerned should legitimately be able to take up their seats at the earliest opportunity and their home Member States should thus be able to enjoy the representation to which they are entitled,
- G. whereas, under Article 5 of the 1976 Act, it is not possible to curtail an MEP's mandate during a parliamentary term or, therefore, to reduce the current number of MEPs in the German delegation within the European Parliament by three,
- H. whereas nearly all of the Member States have designated their additional MEPs in accordance with their respective electoral systems and with the conclusions of the European Council meeting of 18 and 19 June 2009,
- I. whereas the arrival of 18 additional Members during the 2009-2014 parliamentary term will consequently bring the total number of MEPs to 754, and whereas the fact that this exceeds the figure of 751 stipulated in the Lisbon Treaty necessitates an amendment of primary law,
- J. whereas the conclusions of the European Council meeting of 11 and 12 December 2008 already provided for the adoption of transitional measures permitting the arrival of the additional MEPs during the current parliamentary term, and whereas the conclusions of the European Council meeting of 18 and 19 June 2009 laid down rules governing a temporary increase in the number of MEPs,
- K. whereas the European Parliament, for its part, amended its Rules of Procedure on 25 November 2009 in order to permit the arrival of the additional MEPs as observers pending the entry into force of measures enabling them to take up their seats,
- 1. Takes the view that the amendment of Protocol No 36 requested by the European Council stems directly from the new provisions of the Lisbon Treaty, and is a valid solution that will enable all those Member States entitled to additional seats to designate the MEPs concerned; agrees that an additional 18 MEPs should be elected to Parliament for the remainder of the 2009-2014 term; insists, however, that all 18 should take up their seats in Parliament at the same time in order not to upset the balance of nationalities in the House; urges Member States to complete their election procedures in a pragmatic way as soon as

possible;

2. Regrets that the Council did not adopt the necessary measures in time to enable the additional MEPs to take up their seats as soon as the Lisbon Treaty entered into force, and that one of the solutions envisaged in the context of the amendment sought is not in keeping with the spirit of the 1976 act, which was designed to ensure that MEPs are elected directly, rather than indirectly through an election within a national parliament;
3. Agrees, however, to the convening of an intergovernmental conference, provided that it is confined to the specific issue of the adoption of measures concerning the composition of the European Parliament for the rest of the 2009-2014 parliamentary term, and on the understanding that these transitional measures are exceptional ones connected with the specific circumstances of the ratification of the Lisbon Treaty and can in no way set a precedent for the future;
4. Recalls that, in the interval between the approval of the amendment of Protocol No 36 and its entry into force, the additional MEPs will be able to sit in the European Parliament as observers under Rule 11(4) of Parliament's Rules of Procedure;
5. Believes, as regards the appointment of observers, that the spirit of the 1976 Act should likewise be observed as far as possible, but that if technical or political difficulties were to prove insurmountable, indirect election via national parliaments would be an acceptable option;
6. Recalls also that the European Council will have to take a decision establishing the composition of the European Parliament by the end of the current parliamentary term in any case, and that Parliament will initiate such a decision under Article 14(2) of the EU Treaty;
7. Emphasises also that any subsequent decision on the composition of the European Parliament will have to allow for any accessions that may take place in the meantime, and must therefore provide for the number of seats allocated to the new Member States;
8. Instructs its President to forward this resolution to the European Council, the Council, the Commission and the national parliaments.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	7.4.2010
Result of final vote	+: 16 -: 5 0: 2
Members present for the final vote	Carlo Casini, Andrew Duff, Ashley Fox, Matthias Groote, Roberto Gualtieri, Gerald Häfner, Ramón Jáuregui Atondo, Constance Le Grip, David Martin, Jaime Mayor Oreja, Morten Messerschmidt, Paulo Rangel, Algirdas Saudargas, György Schöpflin, Søren Bo Søndergaard, Guy Verhofstadt
Substitute(s) present for the final vote	Elmar Brok, Jean-Luc Dehaene, Enrique Guerrero Salom, Anneli Jäätteenmäki, Íñigo Méndez de Vigo, Adrian Severin, Tadeusz Zwiefka
Substitute(s) under Rule 187(2) present for the final vote	Emma McClarkin