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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))

Committee on Constitutional Affairs

Rapporteur: Andrew Duff

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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 held 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),

Whereas:

- A. the EC Treaty provides 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. Parliament has been directly elected every five years since 1979 and has seen its powers and influence increase throughout this period,

¹ Council Decision 76/787/ECSC, EEC, Euratom (OJ L 278, 8.10.1976, p. 1) as amended 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).

- C. Parliament is set to gain very substantial new powers under the Treaty of Lisbon over legislation, the budget and the election and scrutiny of the Commission,
- D. 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. 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. 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. 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. 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; 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. according to the case-law of the Court of Justice, while 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. 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 in any case, the Commission's proposals are not intended 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 of the European Parliament and of the Council of 4 November 2003 on the regulations 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] ECR I-7917 (concerning Gibraltar) and Case C-300/04 *Eman and Sevinger v College van burgemeester en wethouders van Den Haag* [2006] ECR I-8055 (concerning Aruba).

⁴ See Council Directive 93/109/EC of 6 December 1993 laying down 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

- K. there remain 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, verification of the credentials of MEPs, the filling of vacancies, and the privileges and immunities of MEPs,
 - L. 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 upon each accession of a new Member State,
 - M. 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. 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. 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. the Council has previously agreed to keep the 1976 Act under review⁴; however, the last formal review of electoral procedure by Parliament was initiated as long ago as 1998,
 - Q. 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 elections in 2014:
 - (a) with a view to increasing the proximity between the citizen and Members of the

residing in a Member State of which they are not nationals (OJ L 329, 30.12.1993, p. 34) and Parliament's resolution of 26 September 2007 on the proposal for a Council directive amending 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 of the Treaty on European Union as amended by the Treaty of Lisbon (consolidated version).

² Article 189 of the EC Treaty.

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.

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 in this regard will be taken on the strictly demographic basis of resident population and in accordance with 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 in the same election;
- (h) an electoral authority shall be established at EU level in order to regulate the 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, the Commission and Parliament;

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 also, conversely, 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.

- (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 power 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 it is in conflict with the Act or the 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 adoptive 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; intends subsequently to propose the implementing measures necessary in order 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 supranational regime for Members of the European Parliament²;
 9. Instructs its President to forward this resolution to the Council, the Commission and the

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

² 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 proposed 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)).

parliaments and governments of the Member States.

Draft Council decision adopting the provisions amending the Act concerning the election of the Members of the European Parliament by direct universal suffrage of 20 September 1976

THE COUNCIL,

Having regard to Article 190(4) of the Treaty establishing the European Community,

Having regard to Article 108(3) of the Treaty establishing the European Atomic Energy Community,

Having regard to the proposal by the European Parliament,

Having regard to Parliament's assent,

Intending to implement the Treaty provisions concerning the electoral procedure,

HAS ADOPTED the provisions annexed to this decision and recommends that they be adopted by the Member States in accordance with their respective constitutional requirements.

This decision and the provisions hereunto annexed shall be published in the Official Journal of the European Union.

The Member States shall without delay notify the Secretary-General of the Council of the European Union that they have carried out the procedures required under their respective constitutional rules for adoption of the provisions annexed to this decision.

The amendments shall take effect on the first day of the month following the adoption of the provisions of this Decision by the Member States, in accordance with their respective constitutional requirements.

ANNEX I – Draft Act amending the Act concerning the election of the Members of the European Parliament by direct universal suffrage of 20 September 1976 (1976 Elections Act)¹

Amendment 1

1976 Elections Act

Article 1 – paragraph 1

1976 Elections Act

1. ***In each Member State, members*** of the European Parliament shall be elected on the basis of proportional representation, using the list system or the single transferable vote.

Amendment

1. ***Members*** of the European Parliament shall be elected on the basis of proportional representation, using the list system or the single transferable vote.

Or. en

Amendment 2

1976 Elections Act

Article 1 – paragraph 2

1976 Elections Act

2. ***Member States may authorise voting based on a preferential list system in accordance with the procedure they adopt.***

Amendment

2. ***The list systems adopted shall be semi-open, whereby voters are able to choose from among the candidates on their preferred list.***

Or. en

¹ The amendments in this document are based on a consolidation produced by the Legal Service of the European Parliament on the basis of the Act concerning the election of the representatives of the Assembly by direct universal suffrage (OJ L 278, 8.10.1976, p. 5), as amended by Decision 93/81/Euratom, CECA, CEE amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/CECA, CEE, Euratom of 20 September 1976 (OJ L 33, 9.2.1993, p. 15), and Council Decision 2002/772/CE, Euratom of 25 June 2002 and 23 September 2002 (OJ L 283, 21.10.2002, p. 1). This consolidation differs from the consolidated version produced by the Publications Office of the European Union (CONSLEG. 1976X1008-23/09/2002) in two respects: it incorporates an indent to Article 6(1) '– member of the Committee of the Regions' resulting from Article 5 of the Treaty of Amsterdam (OJ C 340, 10.11.1997) and is renumbered in accordance with Article 2(1) of Council Decision 2002/772/CE, Euratom.

Amendment 3

1976 Elections Act

Article 2

1976 Elections Act

Article 2

In accordance with its specific national situation, each Member State may establish constituencies for elections to the European Parliament or subdivide its electoral area in a different manner, without generally affecting the proportional nature of the voting system.

Amendment

Article 2

1. Each Member State may establish constituencies for elections to the European Parliament on a territorial or linguistic basis.

2. Member States with a population of at least twenty million shall subdivide their electoral area into a number of regional constituencies.

3. The establishment of constituencies must not affect the overall proportional nature of the voting system.

Or. en

Amendment 4

1976 Elections Act

Article 2 a (new)

1976 Elections Act

Amendment

Article 2a

1. The total number of Members elected under the provisions of Article 2 shall be 750. Representation shall be degressively proportional, with a minimum of five Members per State. No State shall be allocated more than ninety-five seats.

2. For the purposes of distributing seats between Member States in accordance with the principle of degressive proportionality, the ratio between the population and the number of seats of each State must vary in relation to their

respective populations in such a way that each Member from a more populous State represents more citizens than each Member from a less populous State and also, conversely, that no less populous State has more seats than a more populous State.

3. The distribution of these seats among Member States shall be reviewed during the mandate of each Parliament. The Council, on a proposal from the Commission, and with the assent of Parliament, shall adopt the decision establishing the composition of the new Parliament. The decision shall be taken not later than twelve months before the end of the mandate.

Or. en

Amendment 5

1976 Elections Act Article 2 b (new)

1976 Elections Act

Amendment

Article 2b

1. Without prejudice to Articles 2 and 2a, there shall be one additional constituency formed from the whole territory of the Union.

2. The total number of Members elected under the provisions of this Article shall be the same as the number of States.

3. An electoral authority shall be established to conduct and verify the electoral process of the European Union constituency. The authority shall comprise one representative of the European Parliament, the Commission and each Member State.

4. EU-wide lists submitted by the European political parties shall be

deemed eligible only:

(a) if composed of candidates resident in at least one quarter of the States, and

(b) if balanced by gender.

5. Each elector shall have one supplementary vote that may be cast for his or her preferred candidate on the EU-wide list. Seats shall be allocated by the Sainte-Laguë method.

6. Detailed arrangements for the European Union constituency election, including the delegation of powers to the electoral authority, shall be laid down in implementing measures to be adopted in accordance with Article 14.

Or. en

Amendment 6

1976 Elections Act Article 3

1976 Elections Act

Article 3

Member States may set a minimum threshold for the allocation of seats. At national level this threshold may not exceed 5 per cent of votes cast.

Amendment

Article 3

*1. Member States may set a minimum threshold for the allocation of seats **distributed in national, regional or linguistic constituencies**. At national level this threshold may not exceed 5 per cent of votes cast.*

*2. **There shall be no minimum threshold for the allocation of seats from the EU-wide constituency.***

Or. en

Amendment 7

1976 Elections Act Article 4

1976 Elections Act

Article 4

Each Member State may set a ceiling for candidates' campaign expenses.

Amendment

Article 4

Member States and the electoral authority shall set ceilings for the campaign expenses of candidates and parties.

Or. en

Amendment 8

1976 Elections Act

Article 5

1976 Elections Act

Article 5

1. The five-year term for which *members* of the European Parliament are elected shall begin at the opening of the first session following each election.

It may be extended or curtailed pursuant to the second subparagraph of **Article 10(2)**.

2. The term of office of each *member* shall begin and end at the same time as the period referred to in paragraph 1.

Amendment

Article 5

1. The five-year term for which *Members* of the European Parliament are elected shall begin at the opening of the first session following each election.

It may be extended or curtailed pursuant to the second subparagraph of **Article 11(2)**.

2. The term of office of each *Member* shall begin and end at the same time as the period referred to in paragraph 1.

Or. en

Amendment 9

1976 Elections Act

Article 6

1976 Elections Act

Article 6

1. Members of the European Parliament shall vote on an individual and personal basis. They shall not be bound by any instructions and shall not receive a binding mandate.

Amendment

Article 6

Members of the European Parliament **shall have the rights and obligations laid down in the Members' Statute and** the Protocol on the privileges and immunities of the European Communities.

2. Members of the European Parliament shall enjoy the privileges and immunities applicable to them by virtue of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities.

Or. en

Amendment 10

**1976 Elections Act
Article 7 – paragraph 1 – indent 1 a (new)**

1976 Elections Act

Amendment

– member of a national or regional parliament,

Or. en

Amendment 11

**1976 Elections Act
Article 7 – Paragraph 2**

1976 Elections Act

Amendment

2. From the European Parliament elections in 2004, the office of member of the European Parliament shall be incompatible with that of member of a national parliament.

deleted

By way of derogation from that rule and without prejudice to paragraph 3:

– members of the Irish National Parliament who are elected to the European Parliament at a subsequent poll may have a dual mandate until the next election to the Irish National Parliament, at which juncture the first subparagraph of this paragraph shall apply;

– members of the United Kingdom Parliament who are also members of the European Parliament during the five-year

term preceding election to the European Parliament in 2004 may have a dual mandate until the 2009 European Parliament elections, when the first subparagraph of this paragraph shall apply.

Or. en

Amendment 12

1976 Elections Act Article 7 – Paragraph 4

1976 Elections Act

4. Members of the European Parliament to whom paragraphs 1, 2 **and** 3 become applicable in the course of the five-year period referred to in Article 5 shall be replaced in accordance with Article 13.

Amendment

4. Members of the European Parliament to whom paragraphs 1 **or** 2 become applicable in the course of the five-year period referred to in Article 5 shall be replaced in accordance with Article 13.

Or. en

Amendment 13

1976 Elections Act Article 9 a (new)

1976 Elections Act

Amendment

Article 9a

***Voters shall be eligible to vote for the European Parliament from the age of 16.
Candidates will be eligible to stand for the European Parliament from the age of 18.***

Or. en

Amendment 14

1976 Elections Act Article 9 b (new)

1976 Elections Act

Amendment

Article 9b

Candidates may stand on the EU-wide list and on a list in one or more Member States at the same election.

Or. en

Amendment 15

1976 Elections Act Article 10 – paragraph 1

1976 Elections Act

Amendment

1. Elections to the European Parliament shall be ***held on the date and at the times fixed by each Member State; for all Member States this date shall fall within the same period starting on a Thursday morning and ending on the following Sunday.***

1. ***Polling days for the*** elections to the European Parliament shall be ***a Saturday and Sunday in May.***

Or. en

Amendment 16

1976 Elections Act Article 11 – Paragraph 2 – subparagraph 2

1976 Elections Act

Amendment

Should it prove impossible to hold the elections in the ***Community*** during that period, the Council acting unanimously shall, ***after consulting the European Parliament***, determine, at least one ***month***¹

Should it prove impossible to hold the elections in the ***Union*** during that period, the Council acting unanimously shall, ***with the assent of Parliament***, determine, at least one ***year*** before the end of the five-

¹ In the versions of Decision 2002/772/CE, Euratom as published in the Official Journal, other than the English

before the end of the five-year term referred to in Article 5, another electoral period which shall not be more than two months before or one month after the period fixed pursuant to the preceding subparagraph.

year term referred to in Article 5, another electoral period which shall not be more than two months before or one month after the period fixed pursuant to the preceding subparagraph.

Or. en

Amendment 17

1976 Elections Act Article 12

1976 Elections Act

Article 12

The European Parliament shall verify the credentials of ***members of the European Parliament. For this purpose it shall take note*** of the results declared officially by the ***Member States and shall rule on any disputes which may arise out of the provisions of this Act other than those arising out of the national provisions to which the Act refers.***

Amendment

Article 12

The European Parliament shall verify the credentials of ***the Members of Parliament on the basis*** of the results declared officially by the ***EU electoral authority and the Member States.***

Or. en

Amendment 18

1976 Elections Act Article 13

1976 Elections Act

Article 13

- 1.*** A seat shall fall vacant when the mandate of a *member* of the European Parliament ends as a result of resignation, death or withdrawal of the mandate.
- 2. Subject to the other provisions of this***

Amendment

Article 13

A seat shall fall vacant when the mandate of a *Member* of the European Parliament ends as a result of resignation, death or withdrawal of the mandate.

and Spanish versions, this period is stated to be one year.

Act, each Member State shall lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office referred to in Article 5 for the remainder of that period.

3. Where the law of a Member State makes explicit provision for the withdrawal of the mandate of a member of the European Parliament, that mandate shall end pursuant to those legal provisions. The competent national authorities shall inform the European Parliament thereof.

4. Where a seat falls vacant as a result of resignation or death, the President of the European Parliament shall immediately inform the competent authorities of the Member State concerned thereof.

Or. en

Amendment 19

1976 Elections Act Article 13 a (new)

1976 Elections Act

Amendment

Article 13a

1. In the case of the Members elected in the Member States, and subject to the other provisions of this Act, each State shall lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office referred to in Article 5 for the remainder of that period.

2. Where the law of a Member State makes explicit provision for the withdrawal of the mandate of a Member of the European Parliament elected in that Member State, that mandate shall end pursuant to those legal provisions. The competent national authorities shall inform the European Parliament thereof.

3. Where a seat of a Member elected in the Member States falls vacant as a result of resignation or death, the President of the European Parliament shall immediately inform the competent authorities of the Member State concerned thereof.

Or. en

(This Amendment partly reproduces the wording of paragraphs 2, 3 and 4 of Article 13 of the 1976 Elections Act. See amendment to Article 13)

Amendment 20

1976 Elections Act Article 13 b (new)

1976 Elections Act

Amendment

Article 13b

1. In the case of the Members elected for the European Union constituency, and subject to the other provisions of this Act, the electoral authority shall take appropriate steps to fill any seat which falls vacant during the five-year term of office referred to in Article 5 for the remainder of that period.

2. Where the law of the EU makes explicit provision for the withdrawal of the mandate of a Member of the European Parliament elected on the EU-wide list, that mandate shall end pursuant to those legal provisions. The electoral authority shall inform the European Parliament thereof.

3. Where a seat on the EU-wide list falls vacant as a result of resignation or death, the President of the European Parliament shall immediately inform the electoral authority thereof.

Amendment 21

**1976 Elections Act
Article 13 c (new)**

1976 Elections Act

Amendment

Article 13c

The European Parliament shall rule on any disputes which may arise out of the provisions of this Act and which involve the law of the Union.

Or. en

Amendment 22

**1976 Elections Act
Article 14**

1976 Elections Act

Amendment

Article 14

Article 14

Should it appear necessary to adopt measures to implement this Act, the Council, acting unanimously on a proposal from the European Parliament after consulting the Commission, shall adopt such measures after endeavouring to reach agreement with the European Parliament in a conciliation committee consisting of the Council and representatives of the European Parliament.

Measures to implement this Act ***shall be adopted by the Council, acting by qualified majority***, on a proposal from the European Parliament, after consulting the Commission, ***and after Parliament has given its assent.***

Or. en

Amendment 23

**1976 Elections Act
Article 15 – subparagraph 2**

1976 Elections Act

Amendment

Annexes I and II shall form an integral part of this Act.

deleted

Or. en

Amendment 24

1976 Elections Act

Article 15 – subparagraph 2a (new)

1976 Elections Act

Amendment

Pursuant to the Accession Treaties, the Czech, Bulgarian, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Romanian, Slovak and Slovenian versions of this Act shall also be authentic.

Or. en

Amendment 25

1976 Elections Act

ANNEX I

1976 Elections Act

Amendment

ANNEX I

deleted

The United Kingdom will apply the provisions of this Act only in respect of the United Kingdom.

Or. en

Amendment 26

1976 Elections Act

ANNEX II

ANNEX II

deleted

Declaration on Article 14

As regards the procedure to be followed by the Conciliation Committee, it is agreed to have recourse to the provisions of paragraphs 5, 6 and 7 of the procedure laid down in the joint declaration of the European Parliament, the Council and the Commission of 4 March 1975¹.

Or. en

¹ *OJ C 89, 22. 4. 1975, p. 1.*

ANNEX II – Consolidated version of the Act concerning the election of the representatives of the Assembly by direct universal suffrage annexed to the Council decision of 20 September 1976, and of the subsequent amendments thereto

**ACT¹
concerning the election of the members of the European Parliament
by direct universal suffrage**

Article 1

1. In each Member State, members of the European Parliament shall be elected on the basis of proportional representation, using the list system or the single transferable vote.
2. Member States may authorise voting based on a preferential list system in accordance with the procedure they adopt.
3. Elections shall be by direct universal suffrage and shall be free and secret.

Article 2

In accordance with its specific national situation, each Member State may establish constituencies for elections to the European Parliament or subdivide its electoral area in a different manner, without generally affecting the proportional nature of the voting system.

Article 3

Member States may set a minimum threshold for the allocation of seats. At national level this threshold may not exceed 5 per cent of votes cast.

Article 4

Each Member State may set a ceiling for candidates' campaign expenses.

Article 5

1. The five-year term for which members of the European Parliament are elected shall begin at the opening of the first session following each election.

¹ NB : This document is a consolidation produced by the Legal Service of the European Parliament on the basis of the ACT concerning the election of the representatives of the Assembly by direct universal suffrage (OJ L 278, 8.10.1976, p. 5), as amended by Decision 93/81/Euratom, CECA, CEE amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/CECA, CEE, Euratom of 20 September 1976 (OJ L 33, 9.2.1993, p. 15), and Council Decision 2002/772/CE, Euratom of 25 June 2002 and 23 September 2002 (OJ L 283, 21.10.2002, p. 1). It differs from the consolidated version produced by the Publications Office of the European Union (CONSLEG. 1976X1008-23/09/2002) on two points: it incorporates an indent to Article 6 paragraph 1 ' - Committee of the Regions' resulting from Article 5 of the Treaty of Amsterdam (OJ C 340, 10.11.1997) and is renumbered in accordance with Article 2 paragraph 1 of Council Decision 2002/772/CE, Euratom.

It may be extended or curtailed pursuant to the second subparagraph of Article 10 (2).

2. The term of office of each member shall begin and end at the same time as the period referred to in paragraph 1.

Article 6

1. Members of the European Parliament shall vote on an individual and personal basis. They shall not be bound by any instructions and shall not receive a binding mandate.

2. Members of the European Parliament shall enjoy the privileges and immunities applicable to them by virtue of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities.

Article 7

1. The office of member of the European Parliament shall be incompatible with that of:

- member of the government of a Member State,
- member of the Commission of the European Communities,
- Judge, Advocate-General or Registrar of the Court of Justice of the European Communities or of the Court of First Instance,
- member of the Board of Directors of the European Central Bank,
- member of the Court of Auditors of the European Communities,
- Ombudsman of the European Communities,
- member of the Economic and Social Committee of the European Community and of the European Atomic Energy Community,
- member of the Committee of the Regions,
- member of committees or other bodies set up pursuant to the Treaties establishing the European Community and the European Atomic Energy Community for the purposes of managing the Communities' funds or carrying out a permanent direct administrative task,
- member of the Board of Directors, Management Committee or staff of the European Investment Bank,
- active official or servant of the institutions of the European Communities or of the specialised bodies attached to them or of the European Central Bank.

2. From the European Parliament elections in 2004, the office of member of the European Parliament shall be incompatible with that of member of a national parliament.

By way of derogation from that rule and without prejudice to paragraph 3:

- members of the Irish National Parliament who are elected to the European Parliament at a subsequent poll may have a dual mandate until the next election to the Irish National Parliament, at which juncture the first subparagraph of this paragraph shall apply;
- members of the United Kingdom Parliament who are also members of the European Parliament during the five-year term preceding election to the European Parliament in 2004 may have a dual mandate until the 2009 European Parliament elections, when the first subparagraph of this paragraph shall apply.

3. In addition, each Member State may, in the circumstances provided for in Article 8, extend rules at national level relating to incompatibility.

4. Members of the European Parliament to whom paragraphs 1, 2 and 3 become applicable in the course of the five-year period referred to in Article 5 shall be replaced in accordance with Article 13.

Article 8

Subject to the provisions of this Act, the electoral procedure shall be governed in each Member State by its national provisions.

These national provisions, which may if appropriate take account of the specific situation in the Member States, shall not affect the essentially proportional nature of the voting system.

Article 9

No one may vote more than once in any election of members of the European Parliament.

Article 10

1. Elections to the European Parliament shall be held on the date and at the times fixed by each Member State; for all Member States this date shall fall within the same period starting on a Thursday morning and ending on the following Sunday.

2. Member States may not officially make public the results of their count until after the close of polling in the Member State whose electors are the last to vote within the period referred to in paragraph 1.

Article 11

1. The Council, acting unanimously after consulting the European Parliament, shall determine the electoral period for the first elections.

2. Subsequent elections shall take place in the corresponding period in the last year of the five-year period referred to in Article 5.

Should it prove impossible to hold the elections in the Community during that period, the Council acting unanimously shall, after consulting the European Parliament, determine, at least one month¹ before the end of the five-year term referred to in Article 5, another electoral period which shall not be more than two months before or one month after the period fixed pursuant to the preceding subparagraph.

3. Without prejudice to Article 196 of the Treaty establishing the European Community and Article 109 of the Treaty establishing the European Atomic Energy Community, the European Parliament shall meet, without requiring to be convened, on the first Tuesday after expiry of an interval of one month from the end of the electoral period.

4. The powers of the European Parliament shall cease upon the opening of the first sitting of the new European Parliament.

Article 12

The European Parliament shall verify the credentials of members of the European Parliament. For this purpose it shall take note of the results declared officially by the Member States and shall rule on any disputes which may arise out of the provisions of this Act other than those arising out of the national provisions to which the Act refers.

Article 13

1. A seat shall fall vacant when the mandate of a member of the European Parliament ends as a result of resignation, death or withdrawal of the mandate.

2. Subject to the other provisions of this Act, each Member State shall lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office referred to in Article 5 for the remainder of that period.

3. Where the law of a Member State makes explicit provision for the withdrawal of the mandate of a member of the European Parliament, that mandate shall end pursuant to those legal provisions. The competent national authorities shall inform the European Parliament thereof.

4. Where a seat falls vacant as a result of resignation or death, the President of the European Parliament shall immediately inform the competent authorities of the Member State concerned thereof.

Article 14

Should it appear necessary to adopt measures to implement this Act, the Council, acting unanimously on a proposal from the European Parliament after consulting the Commission, shall adopt such measures after endeavouring to reach agreement with the European Parliament in a conciliation committee consisting of the Council and representatives of the European Parliament.

¹ In the versions of Decision 2002/772/CE, Euratom as published in the Official Journal, other than the English and Spanish versions, this period is stated to be one year.

Article 15

This Act is drawn up in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, all the texts being equally authentic.

Annexes I and II shall form an integral part of this Act.

Article 16

The provisions of this Act shall enter into force on the first day of the month following that during which the last of the notifications referred to in the Decision is received.

Udfærdiget i Bruxelles, den tyvende september nitten hundrede og seksoghalvfjerds.

Geschehen zu Brüssel am zwanzigsten September neunzehnhundert-sechundsiebzig.

Done at Brussels on the twentieth day of September in the year one thousand nine hundred and seventy-six.

Fait à Bruxelles, le vingt septembre mil neuf cent soixante-seize.

Arna dhéanamh sa Bhruiséil, an fichiú lá de mhí Mhéan Fómhair, míle naoi gcéad seachtó a sé.

Fatto a Bruxelles, addì venti settembre millenovecentosettantasei.

Gedaan te Brussel, de twintigste september negentienhonderd zesenze-ventig.

ANNEX I

The United Kingdom will apply the provisions of this Act only in respect of the United Kingdom.

ANNEX II

Declaration on Article 14

As regards the procedure to be followed by the Conciliation Committee, it is agreed to have recourse to the provisions of paragraphs 5, 6 and 7 of the procedure laid down in the joint declaration of the European Parliament, the Council and the Commission of 4 March 1975¹.

¹ OJ C 89, 22. 4. 1975, p. 1.

EXPLANATORY STATEMENT

Origins

A European Parliament directly elected by universal suffrage is a key feature of the constitutional order of the European Union. As long ago as 1951, Article 20 of the Treaty of Paris on the European Coal and Steel Community provided for an Assembly consisting of ‘representatives of the peoples of the States brought together in the Community’. Article 21(3) said:

The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States.

The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their constitutional requirements.

This same provision was adopted by Article 138(3) of the Treaty of Rome (1957) which established the European Economic Community.¹

The Common Assembly of the ECSC urged implementation of the provision as early as 1954.² In 1960 the European Parliamentary Assembly drafted a Convention on the introduction of direct elections which it submitted to the Council for consideration.³ No progress was made on the matter, however, until the summit meeting at The Hague in December 1969 re-established the item on the Council’s agenda. The Vedel Report (1972), mandated by the European Commission, recommended early implementation of the Treaty provision with respect to direct elections.⁴ Vedel suggested that the term ‘uniform electoral procedure’ should not necessarily be taken to mean that complete uniformity of electoral system had to be achieved at one step: the Parliament could move towards a single electoral law once it had won extra legitimacy on the strength of its first direct election.

In December 1974, meeting in Paris under the chairmanship of Valéry Giscard d’Estaing, the heads of government took the decision in principle to proceed with direct elections ‘as soon as possible ... at any time in or after 1978’⁵. This complemented their decision to transform their own ad hoc summit meetings into the formal European Council.

The European Parliament had already set to work to revisit its draft Convention of 1960. The Patijn Report proposed a directly elected Parliament with a five year mandate.⁶ National electoral systems would apply in the first instance but for a transitional period only, pending

¹ Also Article 108 (3) of the Euratom Treaty.

² Teitgen Report, Committee for Political Affairs and External Relations, Document Nr. 5 1954/1955 and Résolution de l’Assemblée Commune, adoptée le 2 décembre 1954 relative aux pouvoirs de l’Assemblée Commune et à leur exercice; ECSC, OJ of 11.12.1954.

³ Dehousse Report, OJ 37, 2.6.1960.

⁴ *Report of the Working Party examining the problem of the Enlargement of the Powers of the European Parliament*, Bulletin of the European Communities, Supplement 4/72.

⁵ Paragraph 12 of the Communiqué of the heads of government, Paris, 9-10 December 1974. The UK and Denmark reserved their positions. The decision was confirmed by the European Council in Rome the following December.

⁶ Patijn Report, adopted on 14 January 1975; OJ C 32, 11.2.1975.

the introduction of a more uniform electoral system, presumed to be ready in time for the second elections. Polling would take place across the Community within the same three days. Dual parliamentary mandates would be permitted but not encouraged. A list was agreed of the offices at EC level deemed incompatible with a European Parliamentary mandate. 355 seats (for the then nine Member States) would be distributed on a proportional basis, as follows: Germany 71, UK 67, Italy 66, France 65, Netherlands 27, Belgium 23, Denmark 17, Ireland 13, Luxembourg 6. The privileges and immunities of directly-elected MEPs would be those of their national equivalents. National discretion would also apply with respect to the eligible age of electors and candidates, the filling of vacancies, the rules for political parties, and MEPs' terms and conditions. Pending the entry into force of the uniform electoral procedure, Parliament would rule on the verification of the credentials of Members.

The Patijn Report proved to be sufficiently pragmatic for Member States to take it as the basis for negotiation in the Council. The big stumbling block to an agreement continued to be the British government's refusal to adopt an electoral system of a proportional type whereby seats won in the European Parliament would broadly match the votes cast in the ballot box. Although the lack of a uniform electoral procedure was the cause of great frustration at the time, in retrospect Parliament was surely right to concentrate on getting direct elections introduced in the first place and to postpone the perfection of the system until later.

Direct elections at last

On 20 September 1976 the Council reached agreement on an Act concerning the election of the representatives of the European Parliament by direct universal suffrage. The Act, which has the status of primary law and which required ratification by each Member State, was annexed to a Decision.¹

The Council established a chamber of 410 deputies (for the then nine Member States), with the four largest States enjoying an equal number of seats. While the objective of a future uniform electoral procedure was repeated, no timetable was set for its accomplishment. Voting was to take place between Thursday and Sunday. Pending the emergence of a uniform electoral procedure, the verification by Parliament of the credentials of those elected would take note of the official results declared in and by each Member State. A conciliation procedure was established with the Parliament to iron out the details.² After a certain delay, the first elections to the European Parliament took place in June 1979.

The newly elected Parliament soon addressed the matter of turning the 1976 Act into a uniform electoral procedure. The drafting of the Seitlinger Report focussed on the issue of extending proportional representation.³ It proposed multi-member constituencies of between three and fifteen MEPs, with seats allocated by the D'Hondt system, and allowed for the possibility of preferential voting for individual candidates within lists. It noted that there could be deviation from the norm on the grounds of 'special geographical or ethnic factors'. Seitlinger also sought to insist that nationals of one Member State resident in another for more than five years should be given the right to vote in their country of residence. It was proposed that polling be reduced to two days (Sunday and Monday). However, in view of the general

¹ Council Decision 76/787/ECSC, EEC, EURATOM; OJ L 278, 8.10.1976.

² The UK and Denmark annexed declarations concerning their overseas territories; and Germany another with respect to Berlin.

³ Seitlinger Report, adopted on 10 March 1982 by 158 votes to 77 with 27 abstentions; OJ C 87, 5.4.1982. Yet see the critical opinion of the Legal Affairs Committee (rapporteur D'Angelosante).

political situation in the Community, coupled with continuing British refusal to abandon its simple majority system in single member constituencies, no progress was possible in the Council.

A similar fate awaited Reinhold Böckel, appointed rapporteur on the matter in the next mandate, 1984-89. His efforts foundered on the obstacle of the British. Ingenuity was not able to marry proportional and non-proportional electoral systems within a framework which could credibly be called 'uniform' and which, at the same time, would induce a consensus within either Parliament or Council.

The fall of the Berlin Wall and the integration of East Germany into the Community necessitated a review of the number of German deputies in the European Parliament. After the 1989 elections, Karel De Gucht was appointed rapporteur on the dossier. He successfully produced two 'interim reports' which pushed things along. In the first, De Gucht repeated Parliament's earlier proposal for the use of D'Hondt.¹ Concerned about declining turnout in 1984 and 1989, he introduced to the debate the question of how the campaign for the European Parliamentary elections should be run and financed. In his second report, De Gucht proposed that the unified Germany's number of seats should rise to 99, leaving France, Italy and the UK with 87 each.² Finally, De Gucht proposed a top-up system whereby two-thirds of the British seats could be elected by simple majority in single member constituencies, but the remaining third would be distributed proportionately to the total vote of each party.

Nevertheless, despite the efforts of Parliament, it was the election of a Labour government in the UK in May 1997, assisted on this matter by the Liberal Democrats, which finally broke the logjam over the electoral system. For the 1999 elections a closed list system of regional proportional representation was introduced to Great Britain.³ Similar reforms were made in France in time for the 2004 elections.

Helpful Treaty change

Meanwhile, the Treaty of Maastricht (1992) made some bold advances in the area of European Union citizenship. Article 8b(2) laid down that:

... [E]very citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.⁴

Helpfully, this provided a legal base for measures to stimulate transnational electoral politics and increase civic participation.

¹ De Gucht Report, adopted 10 October 1991 by 150 to 26 with 30 abstentions; OJ C 280, 28.10.1991.

² De Gucht Report, adopted 10 March 1993 by 207 to 79 with 19 abstentions; OJ C 115, 26.4.1993.

³ Northern Ireland had enjoyed STV since 1979 because of the overwhelming need to reflect minority opinion in the province. In 1999 10 Liberal Democrats, 2 Greens, 2 Plaid Cymru and 3 UKIP MEPs were elected to the Parliament, witness to the importance of proportional representation to the legitimation of the European Parliament.

⁴ Later Article 19(2) of the Treaty establishing the European Community (TEC). The Treaty of Maastricht necessitated a revision of the 1976 Act, in Council Decision 93/81; OJ L 33, 9.2.1993.

At the same time, the Treaty of Maastricht amended Article 138 to give to the Parliament the right of assent to the Council's proposal for a uniform electoral procedure. It also introduced a new Article 138a which establishes that:

Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.

Tony Blair's victory in May 1997 had a beneficial effect on the closing stages of the Intergovernmental Conference which led up to the signing of the Treaty of Amsterdam. First, the new Treaty capped the size of the Parliament at 700 – with 99 for Germany and 87 each for France, Italy and the United Kingdom.¹ It then added a new, cryptic clause, as follows:

In the event of amendments to this paragraph, the number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States brought together in the Community.

Third, the Amsterdam Treaty inserted a new sub-paragraph establishing that the term of office of the Parliament is five years.² Fourth, the new Treaty amended Article 190(4) (formerly Article 138(3)), as follows:

*The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform electoral procedure in all Member States **or in accordance with principles common to all Member States.***³

This revision reflected the more pragmatic approach of the Parliament as articulated in the De Gucht Report. In particular, the change would allow the Irish to continue to use the Single Transferable Vote (STV) instead of a largest average list system.

Lastly, a new Article 190(5) was usefully added by the Treaty of Amsterdam:

The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting unanimously, lay down the regulations and general conditions governing the performance of the duties of its Members.

The Anastassopoulos Report

Immediately after the signing of the Treaty of Amsterdam in 1997, the Committee on Institutional Affairs appointed Parliamentary Vice-President Georgios Anastassopoulos as its rapporteur on the electoral procedure. His task was to see whether a new proposal could be agreed on the basis of the revised Article 190(4), that is, whether '*principles common to all Member States*' offered a better basis for uniformity than '*a uniform electoral procedure in all Member States*'.

Anastassopoulos found a 'very broad consensus' among Member States on a number of common principles, including, not least, proportional representation. He dropped the idea of trying to craft territorial constituencies in a uniform manner, but insisted on their creation in States with more than 20 million inhabitants. Notably, he raised the question of whether a portion of seats – he proposed ten per cent - could be distributed proportionately from

¹ Article 138(2), subsequently Article 190(2).

² This, which became Article 190(3), simply codified the 1976 Act.

³ Rapporteur's emphasis.

transnational (gender balanced) lists as from the 2009 elections. National thresholds should remain optional. Preferential voting should be encouraged as a stimulus to turnout. Dual parliamentary mandates would be banned. He proposed bringing the elections forward from June to May (in order to avoid summer holidays in Northern states), and to truncate the time for polling itself to two days maximum. The far-reaching Anastassopoulos Report was adopted by Parliament on 15 July 1998 by 355 votes to 146 with 39 abstentions.¹

In 2002 the Council modified the 1976 Act in order to codify the introduction everywhere of proportional representation, to allow explicitly STV and preferential voting, to cater for territorial constituencies, to fix a maximum threshold of 5 per cent, to phase out the dual mandate, and to let national law apply to the withdrawal of mandates and the filling of vacancies.² The bolder proposals of the Parliament's Anastassopoulos Report were not adopted by the Council³.

Nice, Laeken and the Convention

Parliament was unsuccessful in raising the matter of its electoral procedure at the Nice Intergovernmental Conference. Instead, the closing stages of the IGC in December 2000 were marked by the bruising row over the redistribution of seats in the Parliament. In the end, the size of the House for 2004-09 (for the then twenty-five Member States) was to grow to 732 seats: Germany retained 99, France, Italy and the UK maintained parity on 78, and Spain and Poland had 54 each. (Later, upon the accession of Bulgaria and Romania, it was agreed that from 2009 there would be 736 seats: again Germany was to retain 99, France, Italy and the UK were to fall to 72 each, Spain and Poland to 50.)

The Treaty of Nice modified Article 190(5), as follows:

*The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting **by a qualified majority**, lay down the regulations and general conditions governing the performance of the duties of its Members. **All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.***⁴

An amendment was made to Article 191 to create a legal base for the creation of a statute for European political parties. The Council was empowered to lay down regulations governing European parties and particularly their financing, in co-decision with the Parliament.

On the road to recovery from the disappointment of the Nice Treaty, the Laeken Declaration, in December 2001, posed various pertinent questions about the future role of the European Parliament. 'Should the role of the European Parliament be strengthened? Should we extend the right of codecision or not? Should the way in which we elect the members of the European Parliament be reviewed? Should a European electoral constituency be created, or should constituencies continue to be determined nationally? Can the two systems be combined?' When the constitutional Convention discussed these questions, however, it must be admitted that the electoral system was of a lower order of priority to those of the powers of

¹ OJ C 292, 21.9.1998; Parliament's resolution is reproduced in Annex I of the Explanatory Statement.

² 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; OJ L 283, 21.10.2002.

³ For a full account, see Dr George N. Anastassopoulos *The Debate on the System of Electing the Members of the European Parliament*, foreword by Professor Dimitris Th. Tsatsos MEP, Athens & Brussels, 2002.

⁴ Rapporteur's emphasis.

the Parliament and its place in the inter-institutional balance.¹

The Convention proposed, sensibly enough, that the electoral system should be subject to a law or framework law of the Council, acting unanimously on a proposal from and with the consent of the Parliament.² As far as the shape of the Parliament was concerned, the Convention proposed that the European Council should take a decision, by unanimity, on a proposal from and with the consent of Parliament. The size was capped at 736.

‘Representation of European citizens shall be degressively proportional, with a minimum threshold of four members per Member State.’³ Furthermore, the Charter of Fundamental Rights was to become mandatory, Article 39 of which set out the right of every citizen to vote or stand in the European Parliamentary elections in the Member State in which he or she resided, under the same conditions as nationals of that State.

The IGC of 2003-04 which followed up the work of the Convention made no change in the procedures but adapted the relevant clause (now Article I-20(2)) to read as follows:

The European Parliament shall be composed of representatives of the Union’s citizens. They shall not exceed 750 in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than 96 seats.

This was rather similar to a proposal made by Germany at the time of Maastricht, but at that stage rejected. It has been suggested that the significance of the change of the historic wording – from ‘representatives ... of the peoples of the States brought together in the Community’ to ‘representatives of the Union’s citizens’ - was lost on some observers. Although the term ‘peoples’ is not thought to have any precise legal meaning in the current Treaty, the change to ‘citizens’ was not accidental: indeed, the elevation of the EU citizen was accentuated elsewhere in the constitutional treaty.⁴ And representatives of the Parliament in the Convention and at the subsequent IGCs were hopeful that the change would encourage the further development of transnational politics, leading to a more popular recognition of the post-national political space.

The Treaty of Lisbon

The recent story of the ‘period of reflection’ and the negotiation of the Treaty of Lisbon is more familiar. While the matter of the electoral procedure caused no controversy during the renegotiation of the constitutional treaty, the proposal to redistribute seats for the Parliament to be elected in 2009 did. Parliament fulfilled the request of the European Council of June 2007 to make a proposal for the redistribution of seats. Parliament succeeded, in the Lamassoure-Severin Report (2007), in convincingly defining how the principle of degressive proportionality should be applied in practice, thus: ‘the 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

¹ The rapporteur was a member of the Convention on the Future of Europe (2002-03) and was one of Parliament’s three representatives to the 2007 IGC.

² Article III-232 of the Draft Treaty establishing a Constitution for Europe (2003).

³ Article I-19(2) of the Draft Treaty establishing a Constitution for Europe (2003).

⁴ Notably, Article I-45(2) which said that ‘Citizens are directly represented at Union level in the European Parliament’, (later replicated by the Treaty of Lisbon in Article 10(2) of the Treaty on European Union).

populous Member State has more seats than a more populous Member State'.¹

However, one State, Italy, objected to the proposal, consequent on the above, to give it 72 seats compared with the UK (73) and France (74). In the last minutes of the IGC a compromise was reached which raised the size of the Parliament to 751 - that is, 750 plus its President – and the extra seat was given to Italy. Unfortunately, however, this arrangement breaches the strict application of the principle of degressive proportionality (as defined by Parliament), because an Italian MEP would represent fewer people than a Spanish colleague, despite the fact that Spain is less populous than Italy.²

Despite this lapse from purity, the Lamassoure-Severin definition of degressive proportionality has been accepted, at least in theory, by both Parliament and Council, and is unlikely to be altered in the foreseeable future. However, because the treaty of Lisbon is not yet in force, the 2009 elections are to be fought on the basis of the Treaty of Nice (736 seats within a range of 5 to 99 seats per Member State). Nevertheless it is questionable whether the Lisbon formula of '750 plus 1 for Italy' should survive into the 2014 Parliament. There will in any case have to be a fresh distribution of seats before 2014 not only to take demographic change into account but also to cater for the accession of any new Member State.³

In any case, after the little drama over parliamentary seats, the Treaty of Lisbon was finally signed on 13 December 2007. Article 14 of the revised Treaty on European Union reads as follows⁴:

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission.

2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed 750 in number, plus the President. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than 96 seats.

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, respecting the principles referred to in the first subparagraph.

3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.

4. The European Parliament shall elect its President and its officers from among its members.

Article 223 of the Treaty on the Functioning of the European Union reads as follows:

¹ From paragraph 6 of the Lamassoure-Severin Report, adopted 11 October 2007 by 378 votes in favour to 154 against, with 109 abstentions; A6-0351/2007 (OJ C 227 E, 4.9.2008, p. 132).

² The political agreement on the redistribution of seats was confirmed by the European Council on 14 December 2007. The decision referred to in Article 14(2) TEU will only be formally adopted once the Treaty of Lisbon comes into force – albeit, as Article 2 of the Protocol No 36 on Transitional Provisions says, 'in good time before the 2009 European Parliament elections'.

³ In the event that Croatia joins the EU during the term of the 2009-14 Parliament, its seats will be added temporarily to the 751, as per the precedent of Bulgaria and Romania.

⁴ References to the Treaty of Lisbon are from the consolidated version of the Treaties, OJ C 115, 9.5.2008.

1. The European Parliament shall draw up a proposal to lay down the provisions necessary for the election of its members by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, which shall act by a majority of its component members, shall lay down the necessary provisions. These provisions shall enter into force following their approval by the Member States in accordance with their respective constitutional requirements.

2. The European Parliament, acting by means of regulations on its own initiative in accordance with a special legislative procedure, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.

Despite the fact that Parliament did not choose to press the case for a uniform electoral procedure or, as had been mooted, for a reform of the privileges and immunities regime, during the constitutional renegotiation, there was significant progress elsewhere. The first statute for European political parties was delivered in 2003, extended to party political foundations in 2007¹. Likewise, the statute for Members of the European Parliament was at last agreed in 2005.²

Improving the current system

Meanwhile, the Commission returned to the matter of the franchise and candidacy for citizens living in a Member State other than their own – a growing number of people now comprising about 2 per cent of the EU's total population. Rightly concerned about the continued fall in voter turnout at the European elections, the Commission is now seeking to revise Directive 93/109 laying down 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.³

Parliament backs the Commission's proposals to simplify the bureaucratic procedures involved in registering to vote or stand, and in verification by Member States of the eligibility of such registrations. However, Parliament takes issue with the blanket ban in the 1993 legislation against candidates standing in more than one State at the same election, and asks the Council to relax the current restrictions. Parliament bases its position on the fact that, while Article 8 of the 1976 Act forbids dual voting, no such express prohibition applies to the matter of candidature and, furthermore, that an extension of the transnational character of the EU polity depends to some extent on the potential possibility to vote for candidates of a different nationality to one's own. Parliament also seeks to ensure that the State of residence

¹ Respectively, Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding; OJ L 297, 15.11.2003; and Regulation (EC) No 1524/2007 of 18 December 2007; OJ L 343, 27.12.2007.

² Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom), OJ L 262, 07.10.2005.

³ OJ L 329, 30.12.1993.

is not automatically obliged to prevent a citizen from voting if he or she has been deprived of his or her electoral rights in another State. MEPs feel that, in both cases, it should be up to the States concerned to decide on a case by case basis, in order to prevent discrimination. They refer to the stipulation introduced by the Treaty of Maastricht whereby any citizen has the right to vote or stand in the European Parliamentary elections in the State where he or she resides, under the same conditions as nationals of that State.¹

Nationality and citizenship

The Italian protest, launched in the Lisbon IGC, about the number of its seats in the Parliament after 2009 was based, in part, on the claim that the new Treaty would shift the basis on which Parliament should be composed from that of population to that of citizens. The two are different, of course, especially in those countries, such as Italy, which have been more reluctant to naturalise their immigrants than others. However, according to Eurostat, it is impossible to be precise about figures, especially at this time of large-scale movement of people across the internal frontiers of the EU. Eurostat continues to argue, in accordance with UN conventions, that total resident population is the most reliable demographic comparator. Eurostat's estimate is that 94 per cent of the EU population is resident in their home state, 4 per cent are non-EU citizens, and that only 2 per cent are EU citizens living in another Member State.

One recalls that the definition of EU citizen depends entirely on the acquisition of nationality of a Member State. There is no way of becoming an EU citizen without being a national of a Member State. It may be regretted that in almost all Member States the process of naturalisation and the granting of dual citizenship is becoming more complicated than it used to be. And States are acting individually without regard for the effect of their actions on the breadth or quality of EU citizenship.

Such unilateral tendencies are somewhat discordant with the on-going efforts to revise the EU Treaties in a citizen-friendly way. The Treaty on European Union as amended by the Treaty of Lisbon, for example, is robust about what EU citizenship means, as follows:

Article 9

In all its activities, the Union shall observe the principle of equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.

Article 10

- 1. The functioning of the Union shall be founded on representative democracy.*
 - 2. Citizens are directly represented at Union level in the European Parliament.*
- (...)

¹ Duff Report (A6-0267/2007) on the Proposal for a Council Directive amending Directive 93/109/EC of 6 December 1993 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. Adopted 26 September 2007 (OJ C 219 E, 28.8.2008, p. 193). The matter remains unresolved.

The EU has no single definition of its citizenship, therefore, but twenty-seven national varieties. The array of nationality laws among the twenty-seven Member States of the EU is bewildering.¹ Some States grant special privileges to third country nationals of ancestral affinity; others most emphatically do not. Some have residual rights for ex-colonial subjects; others do not. Member States treat the civic rights of their overseas territories or dependencies in many different ways. There has been no attempt by the EU to harmonise these laws, although there are many instances of imitation among Member States. The European Court of Justice has asserted that the right of Member States to set their own rules about the acquisition or loss of nationality is constrained by the necessity to respect EU law.² In this context, the recent decision by Spain to naturalise many immigrants without consulting its partners received a lot of attention.

It is clear that, because nationality laws are highly variable, there is unequal access to the rights of EU citizenship between one Member State and another. Moreover, the position of nationals of one Member State who live for prolonged period in another is also far from uniform. This is particularly relevant when it comes to the loss of franchise at home and the ability to acquire it, or not as the case may be, in the receiving State.³ Add the layer of twenty-seven complex electoral laws on top of twenty-seven nationality laws and one can quickly see that it would be highly impractical as well as impolitic for the Union to launch a programme of wholesale harmonisation.⁴

There would seem, for example, to be no realistic possibility of extending more widely the scope of EU law on the right to participate in European and municipal elections so that it could also embrace participation in national and regional parliamentary elections. Such an initiative at the EU level would be sure to run into accusations by national parliaments of being in clear breach of the twin principles of subsidiarity and proportionality. The most that can be hoped for is that States will agree to practice the open method of coordination in these areas.

In addition, a federally minded core group of States may even attempt enhanced cooperation in electoral law. An extension of bilateral reciprocal franchise rights, such as exist between the UK, Ireland, Cyprus and Malta, would be another way to develop the political rights of EU citizens without formal EU intervention.⁵ One might also anticipate a petition on the matter of electoral rights under the new provision of the Treaty of Lisbon for citizens' initiatives.⁶ In any event, should the political climate ever become more amenable to boosting the political content of EU citizenship, the Council can always act to extend the scope of citizenship rights without having to resort to the full paraphernalia of an IGC.⁷

¹ See Rainer Bauböck, Eva Ersbøll, Kees Groenendijk and Harald Waldrauch (eds), *Acquisition and Loss of Nationality: policies and trends in 15 European states*, Institute for European Integration Research, Austrian Academy of Sciences, Vienna, January 2006.

² See, for example, Cases C-369/90 *Micheletti* [1992], C-145/04 *Spain v. United Kingdom* [2006] (Gibraltar) and C-300/04 *Eman and Sevinger v. College van burgemeester en wethouders van Den Haag* [2006] (Aruba).

³ UK citizens, for example, lose the right to vote in UK elections after 15 years abroad.

⁴ The EU's approach to date has been rightly tentative: see Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States; OJ L 158, 30.4.2004.

⁵ For a full discussion of these issues, see Jo Shaw, *The Transformation of Citizenship in the European Union: Electoral Rights and the Restructuring of Political Space*, Cambridge, 2007.

⁶ Article 11 TEU.

⁷ Article 22 TEC.

Whatever approximation may be achieved in electoral law, there will still be the outstanding problem of how to distribute seats in the European Parliament. Do the changes made by the Treaty of Lisbon to Article 14 of the Treaty on European Union on the status of EU citizenship really matter in this context? Should we be counting EU citizens rather than national inhabitants? If so, who precisely is the European Union citizen? Or do we follow James Madison's belief that, in the republic, parliamentary representation is more of a birthright than a civic privilege? The Madisonian approach suggests that the European Parliament represents not only *de jure* EU citizens (as formally established by the EU Treaty), but that it also represents, and has a duty of care towards, anyone else who abides in the territory of the Union, including minors and denizens. That being the case, and all other things being equal, the traditional method of distributing seats in the Parliament on the basis of total population – to say nothing of counting votes in the Council – still seems to be the right one and should not be amended at least without deeper reflection.

Proposals for reform¹

It is clear that the EU has already made substantial progress in establishing the basic conditions for the uniform election of the European Parliament in spite of the absence of a single electoral law. Of the problems encountered by previous rapporteurs on this dossier, several have already been dispensed with satisfactorily, notably:

- a form of proportional representation has been established in all Member States;
- the dual mandate is abolished;
- European political parties and foundations have been established and financed;
- terms and conditions of MEPs are soon to be harmonised.

There is another category of issues that might have seemed problematical at the outset of the exercise to introduce direct elections but, with the benefit of experience, no longer do so – such as the eligibility of independent candidates and control of election expenses. Here no problems seem to have arisen by the mere application of national discretion and electoral practice.

Notwithstanding the progress made so far, this Report is asked to address the revision of the 1976 Act on direct elections to the European Parliament. And ten years after Parliament last visited the dossier with the Anastassopoulos Report, and a good six years before any practicable reform of the electoral procedure would be brought into force (in 2014), this indeed seems a good time to initiate further reforms.

Parliament's importance and powers have grown substantially since 1979. This has not been mirrored by the rather limited revisions to the 1976 Act since then. If and when the Treaty of Lisbon enters into force, MEPs will become still more powerful than they are today.

Parliament both needs and deserves an electoral system and an internal organisation which is

¹ The rapporteur is grateful for the stimulus provided by the participants in a workshop on *Citizenship and Electoral Procedure*, held in Brussels on 25-26 March 2008. Papers were contributed by Betty de Hart, Dieter Gosewinkel, Sara Hagemann & Simon Hix, Eva Østergaard-Nielsen, Ken Ritchie and Jo Shaw. These papers and a summary of the discussion can be found at:

<http://www.europarl.europa.eu/activities/committees/hearings.do?body=AFCO&language=EN>

commensurate with its new duties. Above all, it needs an enhanced standing in the eye of the public so that it becomes the focus of the new European political space, the accepted forum of the single political market: making European laws and budgets, and holding the executive to account. To date, the search for political legitimacy is being undermined by the continuing decline in turnout at elections, by scanty media reportage, by apathetic political parties and, even, by the latent jealousy of some national parliaments about its growing powers.¹

Can a formal reform of the electoral procedure rectify these problems? Our criteria for initiating a new bout of reform should be carefully defined. We are not seeking uniformity for uniformity's sake. In catering for perceived problems at the national level, our approach should be realistic. Gradualism, perforce, has worked over the years to bring forth many of the objectives first articulated by the founding fathers of the Union in the 1950s. This reform is unlikely to be the last: strong parliaments adapt readily to changing societal and political circumstances. In the case of the EU, the pace and scale of future enlargement is a big unknown. Without knowing the future size and shape of the Union, it would be foolhardy to try to settle today the final destiny of post-national parliamentary democracy in Europe.

But we know at least enough about the alternative scenarios for Europe's future for us to be certain that a strong, vital, directly elected Parliament should be - and will be - at the heart of its system of governance.

There remains, therefore, a significant number of important questions which, if addressed effectively, would make the elections to the Parliament more uniform in the future than they have been in the past and should bring benefits in terms of cohesion, legitimacy, efficiency and pluralism. A review is needed of the different national electoral systems in use with a view to ironing out the more obvious dissimilarities and anomalies.

Important reform proposals made in this Report include:

- 1) making mandatory the establishment of territorial constituencies in the more populous Member States: the evidence is that the smaller the electoral district the higher the level of engagement of the voter;
- 2) permitting the creation of constituencies of specific linguistic communities;
- 3) insisting on preferential voting by the semi-open list system (individual votes for candidates within a party list, giving the opportunity to overturn the ordering of the list by the party), and prohibiting closed lists (where the vote is for party only);²
- 4) stabilising the number of seats elected from national or regional lists at 750, ranging from 5 to 95 per Member State;
- 5) introducing a regular review of the actual distribution of the 750 seats during each Parliamentary mandate according to agreed criteria of degressive proportionality;
- 6) creating a transnational constituency for a small number of additional seats – gender balanced, semi-open preferential system;

¹ See Annex II. Overall turnout fell from 63.0 per cent in 1979 to 45.6 per cent in 2004.

² While also opposing the system of fully open lists, whereby multiple votes can be cast for candidates regardless of party.

- 7) allowing candidates to stand in more than one list at the same election, and facilitating voting by EU citizens living in a Member State other than their own;
- 8) creating an electoral authority at the EU level;
- 9) reducing the polling timetable to the weekend;
- 10) shifting the elections from June to May;
- 11) harmonising the minimum age of electors and candidates;
- 12) establishing a regime for the verification of credentials of Members and the filling of vacancies involving increased powers of the Parliament;
- 13) establishing a uniform and supranational regime for the privileges and immunities of Members;
- 14) encouraging e-polling in an effort to mobilise voters and facilitate voting;
- 15) encouraging Member States to rectify loss of franchise at national elections;
- 16) reflecting further on the choice between inhabitant and citizen as the statistical basis for the distribution of seats in the Parliament.

ANNEX I TO THE EXPLANATORY STATEMENT : Resolution on a draft electoral procedure incorporating common principles for the election of Members of the European Parliament (Anastassopoulos Report)¹

The European Parliament,

- having regard to the motion for a resolution by Mr De Vries on the uniform electoral procedure for the election of Members of the European Parliament (B4-0723/96),
 - having regard to its reports on a uniform electoral procedure, and in particular its resolutions of 10 October 1991² and 10 March 1993³,
 - having regard to the Act concerning the election of the representatives of the European Parliament by direct universal suffrage annexed to the Council Decision of 20 September 1976,
 - having regard to the proposal of 22 October 1996 on a uniform electoral procedure which was tabled by the Government of the Federal Republic of Germany at the Intergovernmental Conference (IGC) and which reproduces the key aspects of Parliament's resolution of 10 March 1993,
 - having regard to Article 138(3) of the EC Treaty and the modification thereof effected by the Treaty of Amsterdam,
 - having regard to Rule 148 of its Rules of Procedure,
 - having regard to the report of the Committee on Institutional Affairs and the opinion of the Committee on Legal Affairs and Citizens' Rights (A4-0212/98),
- A. whereas the Treaty of Amsterdam introduces the concept of 'principles common to all Member States', following the guidelines set out by Parliament in its resolution of 10 March 1993 referred to above, which did not explicitly propose a uniform electoral system but merely general guidelines,
- B. whereas the Government of the United Kingdom has tabled a bill in Parliament, introducing regional proportional representation for the European elections in 1999,
- C. whereas the negotiations on enlargement will probably lead to ten new Member States joining the European Union,
- D. whereas a very broad consensus has emerged among the Member States on determining a number of common principles,
- E. whereas those principles are intended to be implemented in the first instance at national

¹ Adopted on 15 July 1998; OJ C 292, 21.9.1998.

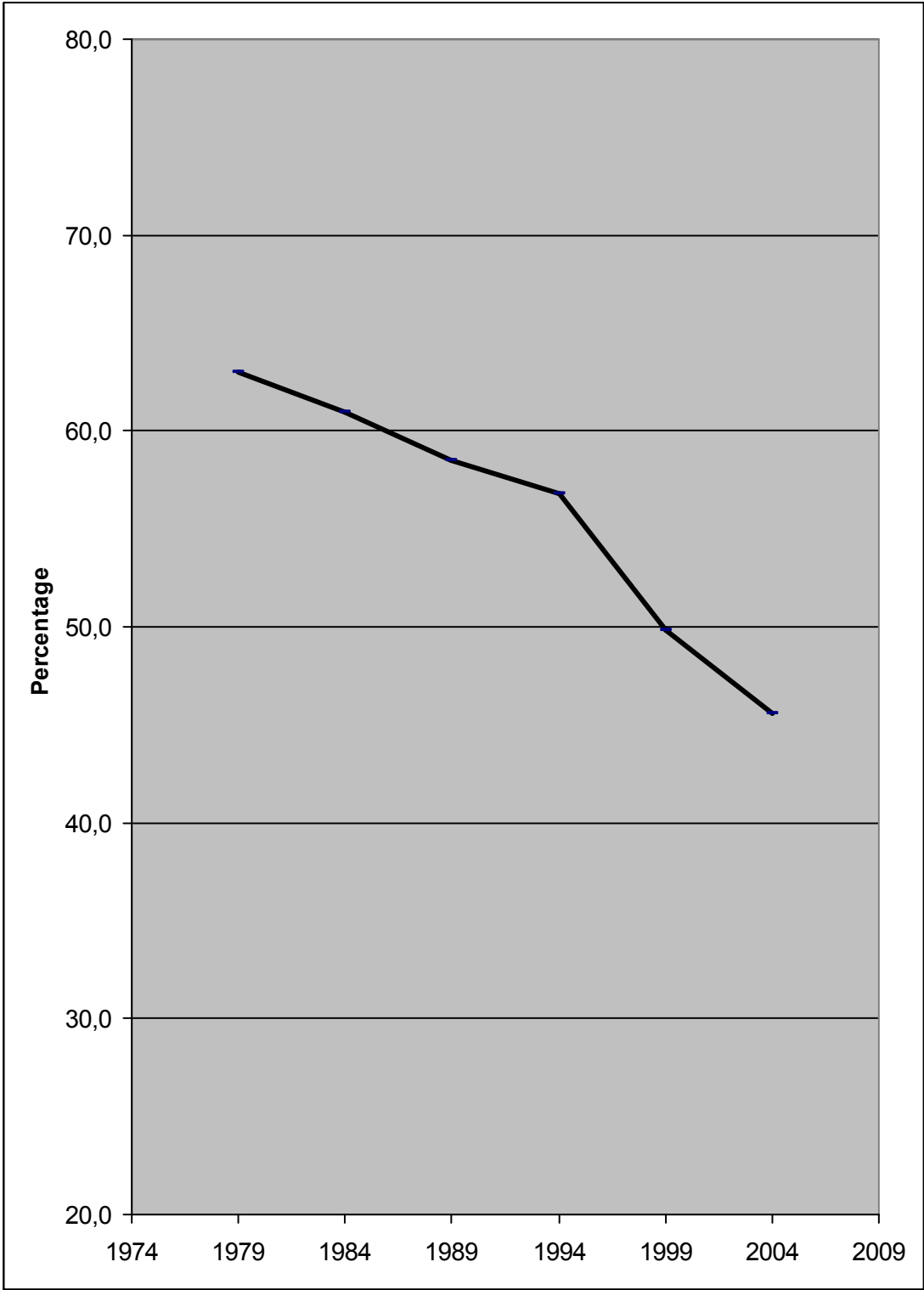
² OJ C 280, 28.10.1991, p. 141.

³ OJ C 115, 26.4.1993, p. 121

level in a union of peoples and states; whereas the number of Members elected in each Member State is intended to guarantee appropriate representation of the peoples of the states brought together in the Community,

1. Welcomes the agreement reached by negotiators at the IGC establishing a number of common principles; is convinced that some of the provisions can enter into force for the next European elections, particularly a system of proportional representation, the minimum threshold, incompatibilities and measures aimed at reaching the objective of equality between men and women, whereas others should be phased in;
2. Considers that there is a general consensus on introducing voting based on a system of proportional representation, and that this should be incorporated into the European electoral system;
3. Notes that it is impossible to establish a system of territorial constituencies in a uniform manner and that there has to be a distinction based on the population of each Member State; emphasises, however, that a system of territorial constituencies must not affect the principle of proportional representation, in accordance with Article 2 of the draft Act;
4. Considers that, with a view to a European political awareness and the development of European political parties, a certain percentage of seats could be distributed on a proportional representation basis within a single constituency formed by the territory of the Member States;
5. Observes, where the use of a threshold is concerned, that this should remain optional and in any event should not exceed 5% of the votes cast nationally;
6. Notes the stimulus to participation represented by preferential voting, which should, however, remain optional for each Member State;
7. Considers that when lists of candidates for European elections are drawn up account must be taken of the objective of equality between men and women and that it is primarily a matter for the political parties to achieve this objective directly;
8. Proposes that European elections should be held on a date in the month of May, so as to maximize the turnout by avoiding the school summer holidays, which start at the beginning of June in several Member States;
9. Recommends that the number of days on which elections can be held should be reduced to the absolute minimum, with a view to reaching a consensus on a single voting day, or, if this is not possible, no more than two days (e.g. Saturday and Sunday);
10. Calls on the Council to examine the following draft Act and to adopt it speedily so as to enable it to enter into force as soon as possible;
11. Instructs its President to forward this resolution and the draft Act annexed to it to the Council, the Commission and the parliaments and governments of the Member States.

ANNEX II TO THE EXPLANATORY STATEMENT : European Parliament Voter Turnout



ANNEX III TO THE EXPLANATORY STATEMENT : European Parliament: Current Electoral Practice

	Constituencies	Preferential voting	Distribution of seats	Thresh old	Franchise	Candidature	Nomination of candidates	Polling days
AUSTRIA	Single national constituency	Yes	D'Hondt	4%	Age: 16 - Registered EU citizens	Age: 18 - Registered EU citizens	Fee of € 3600 per list; candidate must be supported by 3 MPs, one MEP or 2600 registered voters	Sunday
BELGIUM	Three linguistic electoral colleges (Dutch, French, German); and four regional constituencies: 1. Flanders (Dutch electoral college), 2. Wallonia (French electoral college), 3. Brussels-Hal-Vilvorde (BHV) (either Dutch or French electoral college), 4. 2 cantons (German electoral college)	Yes	D'Hondt	No	Age: 18 - Registered EU citizens - BE nationals resident in other member states (BE nationals residing outside the EU cannot vote in EP elections); - voting compulsory: failure to vote carries a penalty	Age: 21 - Registered EU citizens - Must speak the relevant language of electoral college	Endorsement of candidates: - by 5 BE MPs belonging to relevant linguistic group; - by 5000 registered voters in Wallonia, Flanders & BHV; - by 200 voters registered in the German speaking constituency	Sunday
BULGARIA	Single national constituency	Yes	Hare-Niemeyer	No	Age: 18 - EU citizens resident for 3 months or in another member state	Age: 21 - EU citizens resident for 2 years or in another EU member state -	- Individuals need 10.000 signatures and pay 10.000 leva (€ 5100); - Political parties need 15.000 signatures and pay 15.000 leva (€ 7700); - Coalitions need 20.000 signatures and pay 20.000 leva (€ 10.250)	Sunday

	Constituencies	Preferential voting	Distribution of seats	Thresh old	Franchise	Candidature	Nomination of candidates	Polling days
CYPRUS	Single national constituency	No	D'Hondt / Droop	No	Age: 18 - CY and EU citizens resident 6 months before the elections; - Special electoral roll; - Voting is compulsory (but no penalty)	Age: 25		Sunday
CZECH REPUBLIC	Single national constituency	Yes: each voter has 2 votes. To be elected need 5% of votes delivered for his/her political party	D'Hondt	5%	Age: 18 - EU citizens resident for 45 days;	Age: 21 - EU citizens resident for 45 days;	- Only political parties or coalitions may nominate candidates; - Fee of 15.000 crowns (€ 585)	Friday & Saturday
DENMARK	Single national constituency	No	D'Hondt	No	Age: 18 - DK citizens with permanent residency in EU; - Registered EU citizens	Age: 18 - Any person with right to vote in EP elections;	- Parties represented in the Folketing or EP; - New parties need signatures of voters corresponding to at least 2% of votes in previous Folketing election;	No fixed day
ESTONIA	Single national constituency	No	D'Hondt		Age: 18	Age: 21	- Registered political parties submit lists; - A deposit of 5 times the minimum monthly wage	Sunday
FINLAND	Single national constituency	Yes	D'Hondt	No	Age: 18 - Registered EU citizens	Age: 18 - Registered EU	- Political parties or voters' association (formed of at least 2000 persons) nominate candidates	Sunday

	Constituencies	Preferential voting	Distribution of seats	Thresh old	Franchise	Candidature	Nomination of candidates	Polling days
FRANCE	Eight regional constituencies	No	D'Hondt	5%	Age: 18 - Registered EU citizens	Age: 23 - Registered EU citizens	- Gender equality	Sunday
GERMANY	Single national constituency - but members elected from either Land or Federal lists	No	Sainte-Laguë (according to change of law 17 March 2008; BGBl. I, p. 394)	5%	Age: 18 - Registered EU citizens	Age: 18 - Registered EU citizens	- Lists submitted by political parties established in EU; - For Federal list: parties with less than 5 representatives in EP, Bundestag or Land parliaments need 4000 signatures; For Land list: 2000 signatures needed	Sunday
GREECE	Single national constituency	No	Variant of Hare	3%	Age: 18	Age: 21	- Lists submitted by political parties or coalitions;	Sunday
HUNGARY	Single national constituency	No	D'Hondt	5%	Age: 18 - Registered EU citizens	Age: 18 - All voters have right to stand for election as candidates on party lists	- Lists submitted by registered party <i>and 20.000 endorsements</i> (a voter can only endorse one list)	Sunday
IRELAND	Four regional constituencies	Yes	Single Transferable Vote (STV)	No	Age: 18	Age: 21	- Lists submitted by registered political parties; - Independent candidates need 60 signatures of persons on the electoral register and from the same constituency	Friday
ITALY (under current)	Five regional constituencies	Yes - and votes can be	Hare	No	Age: 18 - Registered EU	Age: 25 - Registered EU	- Individual nominations need 30.000 signatures,	Saturday / Sunday

	Constituencies	Preferential voting	Distribution of seats	Thresh old	Franchise	Candidature	Nomination of candidates	Polling days
review)		transferred from one constituency to another			citizens; - IT citizens in other EU states may vote at Italian consulates or by post; IT citizens residing outside EU if they return to vote in IT; - Voting not compulsory but a 'civic duty'	citizens	10% of which must come from each sub-region of the constituency; - Political parties and groups with at least one seat in EP or in IT parliament can submit lists without signatures	
LATVIA	Single national constituency	No	Sainte-Laguë	No	Age: 18	Age: 21	- Lists submitted by registered political parties; - Deposit of LVL 1.000 (€ 1.450)	Saturday
LITHUANIA	Single national constituency	Yes	Hare-Niemeyer	5%	Age: 18	Age: 21	- Only political parties can nominate candidates;	Sunday
LUXEMBOURG	Single national constituency	Yes - electors have 6 votes	D'Hondt / Hagenbach-Bischoff	No	Age: 18 - EU citizens resident for 5 years; - Voting is compulsory	Age: 18 - EU citizens resident for 5 years	- Lists need 250 signatories of registered voters or of one MEP or of members of the Chamber of Deputies; - Lists must be composed of a majority of LUX nationals	Sunday
MALTA	Single national constituency	Yes	STV	No	Age: 18	Age: 18	- Deposit of 40 Maltese pounds (€ 95) (reimbursed if 10% of vote)	Saturday
NETHERLANDS	Single national constituency	Yes	D'Hondt	No	Age: 18 - Registered EU citizens	Age: 18 - Registered EU citizens	- Parties not represented in the EP pay deposit of € 1.1250; - Lists must be accompanied by at least 30 signatures of voters	Thursday

	Constituencies	Preferential voting	Distribution of seats	Thresh old	Franchise	Candidature	Nomination of candidates	Polling days
POLAND	Thirteen regional constituencies	No	D'Hondt / Hare-Niemeyer	5%	Age: 18 - Registered EU citizens	Age: 21 - EU citizens resident for 5 years	- Lists need at least 5 names and 10.000 signatures of voters of the relevant constituency	Sunday
PORTUGAL	Single national constituency	No	D'Hondt	No	Age: 18	Age: 18	- Lists must contain candidates equal to the number of MEPs to be elected, plus 3-8 substitutes	Sunday
ROMANIA	Single national constituency	No	D'Hondt	5%	Age: 18 - Registered EU citizens	Age: 23 - Registered EU citizens	- Lists need 200.000 signatures; independent candidates 100.000	Sunday
SLOVAKIA	Single national constituency	Yes	Droop	5%	Age: 18 - Registered EU citizens resident and present on election day	Age: 21 - Registered EU citizens	- Political party deposit of 50.000 SKK (€ 1510)	Saturday
SLOVENIA	Single national constituency	Yes	D'Hondt	4%	Age: 18	Age: 18	- Political parties submit lists supported by four members of the National Assembly or at least 1000 voters; - Independent candidates endorsed by 3000 signatures	Sunday
SPAIN	Single national constituency	No	D'Hondt	No	Age: 18 - Registered EU citizens	Age: 18 - Registered EU citizens	- Parties or coalitions submit lists with 15.000 signatures of voters or of elected representatives	Sunday
SWEDEN	Single national constituency	Yes	Sainte-Laguë	Parties must	Age: 18 - Registered EU	Age: 18 - Anyone entitled to	- No conditions	Sunday

	Constituencies	Preferential voting	Distribution of seats	Thresh old	Franchise	Candidature	Nomination of candidates	Polling days
				obtain 4%; candidates must obtain 5% of the total number of votes cast for his/her party	citizens	vote may stand for election		
UNITED KINGDOM	Twelve regional constituencies	Great Britain: No Northern Ireland: Yes	Great Britain: D'Hondt; Northern Ireland: STV	No	Age: 18 - Registered EU citizens resident for 1 year	Age: 21 - Registered EU citizens resident for 1 year	- Deposit of £ 5.000 (€ 6750); - Nominations in constituencies must be endorsed by 30 voters	Thursday

Exchange rates as of February 2008