



**2015/2035(INL)**

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## **DRAFT REPORT**

on a proposal for amendment of the Act of 20 September 1976 concerning the election of the Members of the European Parliament by direct universal suffrage  
(2015/2035(INL))

Committee on Constitutional Affairs

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on a proposal for amendment of the Act of 20 September 1976 concerning the election of the Members of the European Parliament by direct universal suffrage (2015/2035(INL))**

*The European Parliament,*

- having regard to the Act concerning the election of the members of the European Parliament by direct universal suffrage ("the Electoral Act"), annexed to the Council decision of 20 September 1976, as amended<sup>1</sup>, and in particular Article 14 thereof,
- having regard to its resolution of 22 November 2012 on the elections to the European Parliament in 2014<sup>2</sup>,
- having regard to its resolution of 13 March 2013 on the composition of the European Parliament with a view to the 2014 elections<sup>3</sup>,
- having regard to its resolution of 4 July 2013 on improving the practical arrangements for the holding of the European elections in 2014<sup>4</sup>,
- having regard to Commission Recommendation 2013/142/EU of 12 March 2013 on enhancing the democratic and efficient conduct of the elections to the European Parliament<sup>5</sup>,
- having regard to the Commission communication of 8 May 2015 entitled "Report on the 2014 European Parliament elections"<sup>6</sup>,
- having regard to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission<sup>7</sup>,
- having regard to Council Directive 93/109/EC on the right to vote and stand as candidate in elections to the Parliament for Union citizens residing in another Member State<sup>8</sup>, – having regard to the Treaties and in particular to Articles 9, 10, 14(2) and 17(7) of the Treaty on European Union (TEU) and to Articles 22, 223(1) and 225 of the Treaty on the Functioning of the European Union (TFEU), and to Article 3 of Protocol (No 2) on the application of the principles of subsidiarity and proportionality,

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<sup>1</sup> Council Decision 76/787/ECSC, EEC, Euratom (OJ L 278, 8.10.1976, p. 1) as amended by Council Decision 93/81/Euratom, ECSC, EEC (OJ L 33, 9.2.1993, p. 15) and by Council Decision 2002/772/EC, Euratom (OJ L 283, 21.10.2002, p. 1).

<sup>2</sup> Texts adopted, P7\_TA(2012)0462.

<sup>3</sup> Texts adopted, P7\_TA(2013)0082.

<sup>4</sup> Texts adopted, P7\_TA(2013)0323.

<sup>5</sup> OJ L 79, 21.3.2013, p. 29.

<sup>6</sup> COM (2015)0206.

<sup>7</sup> OJ L 304, 20.11.2010, p. 47.

<sup>8</sup> 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 residing in a Member State of which they are not nationals (OJ L 329, 30.12.1993, p. 34), as amended by Council Directive 2013/1/EU of 20 December 2012 (OJ L 26, 26.1.2013, p. 27).

- having regard to Protocol No 7 on the Privileges and Immunities of the European Union,
  - having regard to the Charter of Fundamental Rights of the European Union,
  - having regard to Rules 45 and 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Women's Rights and Gender Equality (A8-0000/2015),
- A. whereas Parliament has the right to initiate the reform of its own electoral procedure, and to give its consent thereto;
  - B. whereas the reform of Parliament's electoral procedure should aim at enhancing the democratic dimension of the European elections, reinforce the concept of citizenship of the Union, improve the functioning of the European Parliament and the governance of the Union, make the work of the European Parliament more legitimate and efficient, enhance the effectiveness of the system for conducting European elections, and provide for greater electoral equality for citizens of the Union;
  - C. whereas the reform of the electoral procedure must respect the principles of subsidiarity and proportionality and should not seek to impose uniformity for its own sake;
  - D. whereas the possibility of developing a uniform electoral procedure based on direct universal suffrage has been enshrined in the Treaties since 1957;
  - E. whereas Parliament's competencies have been gradually increasing since the first direct elections in 1979 and are now such that Parliament has equal status as co-legislator with the Council in most of the Union's policy areas, most notably as a result of the entry into force of the Treaty of Lisbon;
  - F. whereas the Lisbon Treaty changed the mandate of Members of the European Parliament, making them direct representatives of the Union's citizens<sup>1</sup> instead of "representatives of the peoples of the States brought together in the Community"<sup>2</sup>;
  - G. whereas the only reform of the Electoral Act itself took place in 2002 through Council Decision 2002/772/EC, Euratom<sup>3</sup>, which requires the Member States to conduct the elections on the basis of proportional representation using a list system or a single transferable vote system and which abolished the dual mandate for Members of the European Parliament. Furthermore, Member States were expressly granted the right to establish constituencies on a national level and to introduce a national threshold not exceeding 5 % of the votes cast;
  - H. whereas a comprehensive agreement on a truly uniform electoral procedure has not yet been achieved, though some convergence of electoral systems has gradually taken place, inter alia through secondary legislation, such as Council Directive 93/109/EC on the right to vote and stand as candidate in elections to the Parliament for Union citizens

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<sup>1</sup> Articles 10(2) and 14(2) TEU.

<sup>2</sup> Article 189(1) of the Treaty establishing the European Community.

<sup>3</sup> OJ L 283, 21.10.2002, p. 1.

residing in another Member State;

- I. whereas the concept of citizenship of the Union, formally introduced into the constitutional order by the Treaty of Maastricht in 1993, includes the right of Union citizens to participate in European and municipal elections in their Member States, and in their State of residence under the same conditions as nationals of that State<sup>1</sup>; whereas the Charter of Fundamental Rights of the European Union, which now has binding legal force under the terms of the Lisbon Treaty, has reinforced that right;
- J. whereas despite these reforms, European elections are still governed for the most part by national laws, electoral campaigning remains national, and European political parties cannot sufficiently fulfil their constitutional mandate and “contribute to forming European political awareness and to expressing the will of citizens of the Union” as required by Article 10(4) TEU;
- K. whereas European political parties are best placed to "contribute to forming European political awareness"<sup>2</sup> and should therefore play a stronger role in the campaigns for Parliament elections, so as to improve their visibility and to show the link between a vote for a particular national party and the impact it has on the size of a European political group in the European Parliament;
- L. whereas the deadlines for finalising electoral lists ahead of European elections vary greatly among Member States, currently ranging from 17 days to 83 days, which puts candidates and voters across the Union in an unequal position when it comes to the time they have to campaign or to reflect on their voting choice;
- M. whereas the existing European electoral rules allow for a non-obligatory threshold of up to 5 % of votes cast to be set for European elections, and 15 Member States have availed themselves of this opportunity and have introduced a threshold of between 3 % and 5 %; whereas in smaller Member States, and in Member States that have subdivided their electoral area into constituencies, the de facto threshold nevertheless lies above 3 %, even though no legal thresholds exist;
- N. whereas although Article 10(2) of the Electoral Act expressly prohibits the early publication of the results of elections, such results have been made public in the past; whereas a harmonised time for the close of polling in all Member States would contribute strongly to the common European character of the European elections and would reduce the possibility of their outcome being influenced if election results in some Member States are made public before the close of polling in all Member States;
- O. whereas the Lisbon Treaty established a new constitutional order by granting the European Parliament the right to elect the President of the European Commission<sup>3</sup> instead of merely giving its consent; whereas the 2014 elections set an important precedent in this respect; whereas the procedure for the nomination and selection of lead candidates for this position should furthermore be an integral part of the election campaigns; and whereas the deadline for the nomination of candidates by European

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<sup>1</sup> Article 20(2) TFEU.

<sup>2</sup> Article 10(4) TEU.

<sup>3</sup> Article 17(7) TEU.

political parties should be codified in the Electoral Act;

- P. whereas not all Member States afford their citizens the possibility of voting from abroad, and among those that do, the conditions for deprivation of the right to vote vary greatly; whereas granting all Union citizens residing outside the Union the right to participate in elections would contribute to electoral equality;
  - Q. whereas the minimum age for eligibility to stand as a candidate across the 28 Member States varies between 18 and 25, and the minimum age for eligibility to vote ranges from 16 to 18, due to the divergent constitutional and electoral traditions in the Member States; whereas harmonisation of the voting age, and of the minimum age for candidates, would be highly desirable as a means of providing Union citizens with real voting equality, and would enable discrimination to be avoided in the most fundamental area of citizenship: the right to participate in the democratic process;
  - R. whereas postal, electronic and internet voting could make the conduct of European elections more efficient and more appealing for voters, provided that the highest possible standards of data protection are ensured;
  - S. whereas in most Member States, members of the executive can seek election to the parliament without having to discontinue their institutional activity;
  - T. whereas first projections of the electoral results should be announced simultaneously in all Member States on the last day of the election period at 21:00 hours CET;
1. Decides to reform its electoral procedure in good time before the 2019 elections, with the aim of enhancing the democratic dimension of the European elections, reinforcing the concept of citizenship of the Union, improving the functioning of the European Parliament and the governance of the Union, making the work of the European Parliament more legitimate and efficient, enhancing the effectiveness of the system for conducting European elections, and providing for greater electoral equality for citizens of the Union;
  2. Proposes that the visibility of European political parties be enhanced by placing their names and logos on the ballot papers, and recommends that the same should also appear on posters and other material used in European election campaigns, since those measures would render European elections more transparent and improve the democratic manner in which they are conducted, as citizens will be able to clearly link their vote with the impact it has on the size of a European political group in the European Parliament;
  3. Determines to set a common minimum deadline of twelve weeks before election day for the establishment of lists at national level, in order to enhance electoral equality by providing candidates and voters across the Union with the same period in which to prepare and reflect ahead of the vote;
  4. Suggests the introduction of an obligatory threshold, ranging between 3% and 5%, for the allocation of seats in single-constituency Member States and constituencies in which the list system is used and which comprise more than 26 seats; considers this measure important for safeguarding the functioning the European Parliament, since it will avoid

further fragmentation;

5. Proposes that elections in all Member States end by 21:00 hours CET on the Sunday of the European elections, as this would ensure the correct application of Article 10(2) of the Electoral Act and thus reduce the possibility of the outcome of the elections being influenced if the election results in some Member States are made public before the close of polling in all Member States;
6. Determines to set a common deadline for the nomination of lead candidates by European political parties 12 weeks in advance of European elections; considers that the process of nomination of lead candidates constitutes an important aspect of electoral campaigns due to the implicit link between the results of European elections and the selection of the Commission President as enshrined in the Treaty of Lisbon;
7. Proposes that Union citizens who reside in a third country be granted the right to cast their vote in elections to the European Parliament; considers that this would finally give all Union citizens the same right to vote in European elections under the same conditions, irrespective of their place of residence or nationality;
8. As a future step, recommends to Member States that they should consider ways to harmonise the minimum age of voters at 16, in order to further enhance electoral equality among Union citizens;
9. Encourages Member States to use postal electronic and internet voting in order to make voting easier for people with reduced mobility and for those living abroad;
10. Calls on the institutions involved to review the Framework Agreement on relations between the European Parliament and the European Commission, with a view to adapting the rules on Commissioners seeking elections to the European Parliament, in order not to impede the institutional efficiency of the Commission in times of elections, while avoiding the misuse of institutional resources;
11. Determines to give Parliament the right to fix the electoral period for elections to the European Parliament after consulting the Council;
12. Encourages Member States to take measures to promote gender balance in every aspect of European elections;
13. Submits to the Council the annexed proposal for amendment of the Act concerning the election of the Members of the European Parliament by direct universal suffrage;
14. Instructs its President to forward this resolution to the European Council, the Council, the Commission and the parliaments and governments of the Member States.

**Draft proposal for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage<sup>1</sup>**

**Amendment 1**

**1976 Electoral Act**

**Article 3**

*1976 Electoral Act*

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*

***For constituencies, and for single-constituency Member States, in which the list system is used and which comprise more than 26 seats, Member States shall set a threshold for the allocation of seats which shall not be lower than 3 per cent, and shall not exceed 5 per cent, of the votes cast in the constituency, or the single-constituency Member State, concerned.***

Or. en

*Justification*

*All Member States with up to 26 seats have a de facto threshold of more than 3%. Of the seven Member States with more than 26 seats (Germany, France, the United Kingdom, Italy, Poland, Romania and Spain), all Member States except Spain and Germany have a legal electoral threshold for European elections, ranging from 3% to 5%, or have subdivided their electoral area in constituencies comprising not more than 26 seats. Therefore, this amendment would prevent the Parliament from further fragmentation and would make its functioning more efficient but at the same time not constrain the conduct of democratic elections in smaller Member States or Member States that have divided their territories into smaller constituencies.*

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<sup>1</sup> 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, ECSC, EEC amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ L 33, 9.2.1993, p. 15), and Council Decision 2002/772/EC, 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(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/EC, Euratom.



## **Amendment 2**

### **1976 Electoral Act**

#### **Article 3 a (new)**

*1976 Electoral Act*

*Amendment*

#### **Article 3 a**

***Each Member State shall set a deadline for the establishment of electoral lists at national level of at least 12 weeks before the start of the elections to the European Parliament in that Member State.***

Or. en

#### *Justification*

*This amendment would provide Union citizens with the same reflection period to decide on their voting choice and will provide candidates with the same time to prepare their campaigns.*

## **Amendment 3**

### **1976 Electoral Act**

#### **Article 3 b (new)**

*1976 Electoral Act*

*Amendment*

#### **Article 3 b**

***The ballot papers shall include information concerning the affiliations of national parties with European political parties, where such affiliations exist. Member States shall encourage and facilitate the provision of such information on electoral campaign materials.***

Or. en

#### *Justification*

*This amendment is necessary for the establishment of a uniform electoral procedure in all Member States as it gives Union citizens information on the link between national candidates and the political families on European level.*

## **Amendment 4**

### **1976 Electoral Act Article 3 c (new)**

*1976 Electoral Act*

*Amendment*

#### **Article 3 c**

***European political parties shall nominate their candidates for the position of Commission President at the latest 12 weeks before the start date of the electoral period as indicated in Article 10(1).***

Or. en

#### *Justification*

*Since the Lisbon Treaty gave the Parliament the right to elect the Commission President, Union citizens should be able to make a link between their votes and their party's candidate for Commission President.*

## **Amendment 5**

### **1976 Electoral Act Article 4 a (new)**

*1976 Electoral Act*

*Amendment*

#### **Article 4 a**

***Member States may introduce electronic and internet voting for elections to the European Parliament and, where they do so, shall adopt measures sufficient to ensure the secrecy of the vote and data protection.***

Or. en

#### *Justification*

*This amendment would allow the use of electronic voting in European elections, thus making voting easier for Union citizens with reduced mobility and for those living abroad.*

## **Amendment 6**

### **1976 Electoral Act Article 4 b (new)**

**Article 4 b**

***Member States may afford their citizens the possibility of casting their vote by post in elections to the European Parliament.***

Or. en

*Justification*

*This amendment would allow the use of voting by post mail, thus providing Union citizens with another way to cast their vote.*

**Amendment 7**

**1976 Electoral Act**

**Article 7 – paragraph 2**

***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.

2. 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.***

## Amendment 8

### 1976 Electoral Act Article 9 a (new)

*1976 Electoral Act*

*Amendment*

#### *Article 9 a*

***Union citizens residing in a third country shall have the right to vote in elections to the European Parliament. Member States shall take the necessary measures to ensure the exercise of this right.***

Or. en

#### *Justification*

*Union citizens residing outside the Union should enjoy the same rights to participate in European elections as those residing in the Union.*

## Amendment 9

### 1976 Electoral Act Article 10 – paragraph 1

*1976 Electoral Act*

*Amendment*

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.

Elections to the European Parliament shall be held on the date ***or dates*** and at the times fixed by each Member State. ***For*** all Member States ***the*** date ***or dates*** shall fall within the same period starting on a Thursday morning and ending on the following Sunday. ***The election shall end in all Member States by 21:00 hours CET on that Sunday.***

Or. en

#### *Justification*

*This measure would avoid leakages of information on election results in Member States that hold European elections earlier and would thus eliminate the possibility to influence the overall final results of the elections.*

## Amendment 10

### 1976 Electoral Act

#### Article 10 – paragraph 2

##### *1976 Electoral Act*

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.

##### *Amendment*

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. ***First projections of the results shall be communicated simultaneously in all Member States at 21:00 hours CET on the Sunday marking the end of the electoral period specified in paragraph 1.***

Or. en

##### *Justification*

*This measure would create a pan-European moment.*

## Amendment 11

### 1976 Electoral Act

#### Article 11 – paragraph 2 – subparagraph 2

##### *1976 Electoral Act*

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

##### *Amendment*

Should it prove impossible to hold elections in the ***Union*** during that period, the ***European Parliament*** shall, after consulting the ***Council***, determine, at least ***twelve weeks*** 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 fixed period pursuant to the preceding subparagraph.

Or. en

*Justification*

*The Parliament should have the right to fix the dates for its own electoral period.*

## EXPLANATORY STATEMENT

### **The Case for Electoral Law Reform**

Even though already the Treaty of Rome in 1957 envisaged the possibility for the elaboration of a *uniform* electoral procedure based on direct universal suffrage, elections to the European Parliament are still highly dominated by national electoral rules. The political distribution of seats in the European Parliament is not determined by one European election, but 28 national elections of national seat contingents. This constitutes a sharp contrast to the nature of the European Parliament as a truly European body and an equal co-legislator in the European Union's institutional set-up. The political groups in the European Parliament show a remarkable level of coherence in voting comparable with most national parliaments. Fully in line with their role according to the European Treaties, Members of the European Parliament do not act as representatives of their Member State, but as "representatives of the Union citizens"<sup>1</sup>.

The different political visions and interests represented in the European Parliament are not presented to the electorate in the run-up to the European elections. Election campaigns are conducted first and foremost in the national political arenas, leaving Union citizens in the dark about the actual policy that might result from their vote. In this regard the nomination of lead candidates by the European political parties for the post of Commission President in the 2014 European elections can be seen as a breakthrough. However, despite all efforts, the leading lead candidates were unknown to the majority of Union citizens<sup>2</sup> and for many voters even the affiliation of the national parties to their European political families remained unclear. Elections are the main instrument of democratic participation, but due to the outdated system governing the European elections, Union citizens are unable to fully take part in European political debates.

Apart from the need to strengthen the European dimension of European elections, the current degree of heterogeneity in national electoral rules conflicts with the notion of European Union citizenship and the principle of equality. While harmonization is not an end in itself, Union citizens must be able to exercise their voting rights under comparable conditions respecting democratic principles, irrespective of their national citizenship.

In order to bridge the gap between the European institutions and the electorates that are kept in their national cocoons, as well as to provide equal treatment of all Union citizens, the European Parliament is determined to make use of its rights enshrined in Article 223 (1) TFEU to initiate a reform of the European Electoral Act<sup>3</sup>.

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<sup>1</sup> Article 14 (2) TEU: "The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be digressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats."

<sup>2</sup> According to an IPSOS poll conducted in April 2014 only 40% of voters throughout Europe knew Martin Schulz, 39% Jean-Claude Juncker and José Bové, 37% Guy Verhofstadt and 31% Ska Keller or Alexis Tsipras. See [www.ipsos-na.com/news-polls/pressrelease.aspx?id=6491](http://www.ipsos-na.com/news-polls/pressrelease.aspx?id=6491).

<sup>3</sup> Act concerning the election of the members of the European Parliament by direct universal suffrage, OJ L 278, 8.10.1976, p.5, amended by Council Decision of 25 June 2002 and 23 September 2002 amending the Act

## Status Quo

Since 1976, when the European Electoral Act paved the way for the first direct election of the European Parliament in 1979, the provisions governing the European elections have undergone some development, albeit not as substantial as the European Parliament would have wanted. In 1992 the Treaty of Maastricht gave the European Parliament the right to assent to the Council's decision on a uniform procedure and made significant advances in the area of citizenship by providing Union citizens with the right to vote and stand as a candidate in any Member State of residence. The Maastricht Treaty introduced the possibility for establishing political parties at the European level, thereby making a step towards transnational politics. In the Amsterdam Treaty of 1997 the European Parliament's mandate for a reform of the European electoral law was widened. Since then, proposals of the European Parliament do not necessarily have to aim at a uniform procedure, but can also define common principles that have to be followed by all Member States. The Treaty of Lisbon granted Members of the European Parliament the status of representatives of the European Union's citizens instead of the "peoples of the States". It furthermore gave the European Parliament the right to *elect* the Commission President, instead of merely giving its consent to the European Council's choice. The obligation of the European Council to take the results of the European elections into account when nominating the candidate links the vote of the Union citizens to the election of the Commission President.

In parallel to the Treaty changes, progress was made in establishing basic conditions for the election of the European Parliament through secondary legislation. Council Directive 93/109/EC<sup>1</sup> laid down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for Union citizens residing in a Member State of which they are not nationals. However, problems persist in its implementation (the Commission launched infringement procedure against 14 Member States who failed to transpose this Directive). Council Regulation 2004/2003<sup>2</sup> set the rules for the establishment of European Political Parties and gives them access to funding from European Union's general budget. The rules were further developed through Regulation 1141/2014<sup>3</sup>, which will enter into force in 2017 and grant European Political Parties a European legal personality.

The only reform of the European Electoral Act itself took place in 2002 through Council Decision 2002/772 EC, which requires the Member States to conduct the elections on the basis of proportional representation using a list system or a single transferable vote system and abolished the dual mandate for Members of the European Parliament. Member States were furthermore granted the explicit right to establish constituencies on national level and introduce a national threshold of up to 5%.

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concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Decision 76/787/ECSC, EEC, Euratom, OJ L 283, 21.10.2002, p. 1–4, in the following called "European Electoral Act".

<sup>1</sup> Council Directive 93/109/EC of 6 December 1993, OJ L 329, 30.12.1993, p. 34–38, amended by Council Directive 2013/1/EU of 20 December 2012, OJ L 26, 26.1.2013, p. 27–29.

<sup>2</sup> Regulation 2004/2003/EC of the European Parliament and 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, amended by Regulation 1524/2007/EC of the European Parliament and of the Council of 18 December 2007, OJ L 343, 27.12.2007, p. 5.

<sup>3</sup> Regulation 1141/2014/EU, Euratom of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations, OJ L 317 04.11.2014, p. 1.



Despite these reforms European elections are still mostly governed by national laws, electoral campaigning remains national and European political parties can not sufficiently fulfil their constitutional mandate and “contribute to forming European political awareness and to expressing the will of citizens of the Union” as demanded by Article 10 (4) TEU.

### **The Way Forward**

Article 223 (1) TFEU gives the European Parliament the right to initiate a reform of European electoral law by formulating proposals, which the Council decides upon by unanimity. Amendments to the European Electoral Act are then submitted for ratification by the Member States according to their constitutional requirements. In addition to this, Article 14 of the European Electoral Act provides for a lighter procedure to be used for more technical measures. They are adopted by a unanimous Council-vote after consulting the European Commission, without requiring national ratification. However, any implementing measure must be based on specific provisions in the European Electoral Act itself. Given the limited scope of the European Electoral Act in its current form, no substantial reforms can be undertaken by implementing measures.

The Rapporteurs examined a broad number of potential reform measures that could reach the goal of enhancing the democratic dimension of the European elections, reinforcing the Union citizenship, improving the functioning of the European Parliament and the governance of the European Union, making the work of the European Parliament more legitimate and efficient, enhancing the effectiveness of the European elections' conduct, and providing for more electoral equality of the Union citizens. After having closely scrutinised the merits of each of the potential reform measures in achieving the abovementioned objectives as well as their feasibility in the current political context, the Rapporteurs decided to propose the following changes to the 1976 Electoral Act:

1. Enhancement of the visibility of European political parties by placing their names and logos on the ballot papers, and where possible on posters used in European elections campaigns;
2. Introduction of a common deadline of twelve weeks before election day for the establishment of lists at national level;
3. Introduction of an obligatory threshold for the allocation of seats in single-constituency Member States and constituencies which comprise more than 26 seats ranging between 3% and 5% for Member States using the list system;
4. Close of polling in all Member States by 21:00 hours CET on the Sunday of elections;
5. Introduction of a common deadline of 12 weeks for the nomination of lead candidates by the European political parties;
6. Introduction of the right to vote in the European elections for all Union citizens living outside the EU;

7. Introduction of electronic and internet voting possibilities as well as voting by post mail;
8. Harmonized age of voters at 16 years as further recommendation to the Member States.