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2 June 1998 A4-0212/98

REPORT

on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament

Committee on Institutional Affairs

Rapporteur: Mr Georgios Anastassopoulos

DOC_EN\RR\354\354956 PE 224.331/fin.

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Following a request by the Conference of Committee Chairmen, the President of Parliament announced at the sitting of 5 November 1997 that the Committee on Institutional Affairs had been authorized to draw up a report on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament.

The Committee on Institutional Affairs had appointed Mr Anastassopoulos rapporteur at its meeting of 30 September 1997.

At its meeting of 28 April 1998 it decided, pursuant to Rule 45(2), to include in its report 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) which had been referred to it as the committee responsible on 22 October 1996 and to the Committee on Legal Affairs and Citizens' Rights for an opinion.

It considered the draft report at its meetings of 3 and 4 November, 24 and 25 November 1997, 26 and 27 January, 16 and 17 March, 21 and 22 April, 27 and 28 April and 25 and 26 May 1998.

At the last meeting it adopted the motion for a resolution by 26 votes to 3 with 3 abstentions.

The following were present for the vote: De Giovanni, chairman; Corbett, second vice-chairman; Berthu, third vice-chairman; Anastassopoulos, rapporteur; Aglietta, Blokland (for Bonde), Bourlanges (for Maij-Weggen), Brok, Cardona, Delcroix, Dell'Alba (for Saint-Pierre), Dimitrakopoulos (for Salafranca, pursuant to Rule 138(2) of the Rules of Procedure), Ferrer (for B. Donnelly, pursuant to Rule 138(2) of the Rules of Procedure), Frischenschlager, Hager (for Vanhecke), Herman, Herzog, Malangré (for Rack, pursuant to Rule 138(2) of the Rules of Procedure), Martens (for Capucho), Méndez de Vigo, Neyts, Paasilinna (for Manzella), Papayannakis (for Sjöstedt), Puerta, Read (for Barton), Rothley (for Tsatsos), Schäfer, Schlechter, Spaak, Spiers, Valverde (for D'Andrea) and Voggenhuber.

The opinion of the Committee on Legal Affairs and Citizens' Rights is attached.

The report was tabled on 2 June 1998.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

A
MOTION FOR A RESOLUTION

Resolution on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament

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 the resolutions of 10 October 1991⁽¹⁾ and 10 March 1993⁽²⁾,
 - 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 and which reproduces the key aspects of the 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, 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,

⁽¹⁾ and 10 March 1993⁽²⁾ OJ C 280, 28.10.1991, pp. 141-143

⁽²⁾ OJ C 115, 26.4.1993, pp. 121-122

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 by the next European elections, particularly a system of proportional representation, the minimum threshold and incompatibilities, 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; emphasizes, however, that a system of territorial constituencies must not affect the principle of proportional representation as per 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 should be distributed on a proportional 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 Union-wide lists of candidates are drawn up account should 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 during 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 for 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 to the Council, the Commission and the parliaments and governments of the Member States.

THE COUNCIL,

Formed by representatives of the Member States and acting unanimously,

Having regard to Article 138(3) of the Treaty establishing the European Community (Article 190(4)),

Having regard to Article 21(3) of the Treaty establishing the European Coal and Steel 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 rules.

This decision and the provisions annexed thereto shall be published in the Official Journal of the European Communities.

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 the provisions annexed to this decision to be adopted.

This decision shall come into force on the day of its publication in the Official Journal of the European Communities.

DRAFT ACT PURSUANT TO ARTICLE 138(3)
OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY
(Article 190(4) of the consolidated Treaty)

with a view to enabling the Members of the European Parliament to be elected by direct universal suffrage in accordance with principles common to all the Member States

Article 1 - In each Member State, Members of the European Parliament shall be elected by a list system of proportional representation. The Members of the European Parliament shall be elected by direct universal suffrage through an equal, free and secret ballot.

Article 2 - Each Member State shall establish territorial constituencies without generally violating the proportional character of the system. This provision shall apply with effect from the elections to the European Parliament scheduled for 2004. Member States whose population does not exceed 20 million inhabitants are not required to establish such constituencies.

- Article 3 - Where a country decides to establish several electoral constituencies on its territory, the Members of the European Parliament that it elects shall remain, in accordance with Articles 137 and 138 (189 and 190 new) of the Treaty, the representatives of the people that has elected them, as a whole, and not the representatives of their constituencies.
- Article 4 - Special arrangements may be made to take account of specific regional characteristics but may not violate the principle of proportional representation.
- Article 5 - A threshold for the distribution of seats may be set and at national level may not exceed 5% of the votes cast.
- Article 6 - Member States may permit preferential voting in accordance with procedures that they shall lay down.
- Article 7 - Ten per cent of the total number of seats within the European Parliament shall be filled by means of list-based proportional representation relating to a single constituency comprising the territory of the European Union Member States with effect from the European elections to be held in 2009. The implementing provisions shall be adopted by 1 January 2008 on a proposal from the European Parliament by the Council acting unanimously, following receipt of Parliament's assent.
- Article 8 - The office of Member of the European Parliament shall be incompatible with the office of Member of a national parliament.
- Article 9 - Each Member State may set a limit for candidates' expenditure linked to the conduct of the election campaign.
- Article 10 - The provisions of this Act shall come into force on the first day of the month following receipt of the last of the notifications referred to in the decision.

B **EXPLANATORY STATEMENT**

INTRODUCTION

The modification of Article 138 of the EC Treaty (Article 190 of the consolidated Treaty) effected by the Treaty of Amsterdam is a significant political development as regards the adoption of an electoral system for the election of Members of the European Parliament.

More generally, this addition to the Treaty represents a new stage along the road to endowing the European Parliament with a comprehensive constitutional status reflecting the characteristics of a democratic system at European level.

This development should be placed in the overall context shaped by the election of Parliament by direct universal suffrage with effect from 1979, the granting of legislative codecision by the Maastricht Treaty and the granting to Community citizens of the right to vote in elections to the European Parliament, and to stand for election thereto, in the Member State where they reside.

The Maastricht Treaty also contains provisions concerning the role of European political parties as a factor of European integration and as a contribution to the expression of the political will of the people of Europe.

The Treaty of Amsterdam continues this process by setting a ceiling of 700 Members, by extending the codecision procedure and making it even-handed and by empowering the European Parliament to confirm the President of the Commission in office.

With a view to forthcoming enlargements it is becoming increasingly desirable that the electoral procedure issue should be settled once and for all on the basis of the aspects of that procedure which enjoy wide support within the Member States.

BACKGROUND

As early as 1957, the Treaty establishing the European Community provided for the European Parliament to draw up proposals for its election by direct universal suffrage in accordance with a uniform procedure in all the Member States.

1. Before election by direct universal suffrage

Without wishing to present a detailed history of all the proposals which were drawn up between 1960 and 1979, it is worth recalling that a number of proposals were adopted, without success, during that period. The reasons for the impasse were, in fact, more to do with the issue of the direct election of Members, which was deemed inopportune, particularly by General de Gaulle.

As early as October 1958 a working party on European elections was set up within Parliament's Committee on Political and Institutional Affairs. In March 1960 it submitted a draft agreement on the election of the European Parliamentary Assembly by direct universal suffrage, which was adopted unanimously (the rapporteurs being Mr Battista, Mr Dehousse, Mr Faure, Mr Schuijt

and Mr Metzger). This report prepared the ground for the election of MEPs by direct universal suffrage, although it did not put forward any proposals for a uniform electoral system.

Other proposals to enable Parliament to be directly elected in accordance with a uniform procedure followed between 1960 and 1975, the most recent being the report by Mr Patijn(

) adopting a draft agreement establishing the election of the Members of the European Parliament by direct universal suffrage. The rapporteur had chosen

- to make it possible for Parliament to be elected directly on the basis of national electoral systems,
- to put forward proposals of restricted scope in order to enable the desired objectives to be achieved,
- to propose a step-by-step approach with the ultimate aim of introducing a uniform electoral procedure.

The Act of 20 September 1976 opened the way to the first direct elections to the European Parliament in 1979, which was undoubtedly a huge step forward towards European integration in so far as it enabled the people to become directly involved in the process. The Act constitutes a framework for direct election but does not provide for a uniform electoral procedure. Article 7 of the Act stipulates that, pending the entry into force of a uniform electoral procedure, the electoral procedure will be determined in each Member State by means of national provisions.

The French President, who at the time was Mr Valéry Giscard d'Estaing, was directly behind the European Council decision which led to elections by direct universal suffrage for a Parliament of which Mr Giscard d'Estaing would himself become a member a few years later.

2. The Seitlinger report

After 1979 the European Parliament drew up a proposal for a uniform electoral procedure which was adopted on 10 March 1982(

) (the Seitlinger report, adopted by 158 votes to 77, with 27 abstentions). In that proposal, Parliament suggested a system of proportional representation,

3. The Bocklet working document

(
) adopting a draft agreement establishing the election of the Members of the European Parliament by direct universal suffrage. The rapporteur had chosen a pragmatic approach based on three principles:

) Resolution of 14 January 1975, Doc. 368/74.

(
) (the Seitlinger report, adopted by 158 votes to 77, with 27 abstentions). In that proposal, Parliament suggested a system of proportional representation, with the seats being distributed according to the d'Hondt system.

) OJ C 87, 5.4.1982, p. 61

Following the 1984 elections, the European Parliament decided to put forward a new proposal with the aim of reviving the debate within the Council and it appointed Mr Bocklet (PPE) rapporteur. Just before the Committee on Political Affairs voted on the report the Committee on Legal Affairs adopted an opinion which was in very close agreement with almost all the basic items in the draft report adopted by the Committee on Political Affairs. However, the Committee on Legal Affairs wished the electoral procedure to be genuinely uniform and it pointed out that, from the legal point of view, the existence of a uniform procedure did not just mean that the

principles, objectives and results obtained by the electoral systems should be uniform but that the actual procedures used to achieve those principles, objectives and results should be uniform as well. It also took the view that the draft report by the Committee on Political Affairs should merely regulate the right to vote and it proposed that a joint working party should be set up, comprising members of the Committee on Political Affairs and the Committee on Legal Affairs, with a view to securing an agreement on a uniform electoral procedure, so that the draft report would receive the backing of the largest possible majority of Parliament's Members.

The rapporteur, Mr Bocklet, realizing the extent to which views within the European Parliament concerning the actual electoral procedure diverged, accordingly felt that it was inadvisable to invite Parliament to vote on his draft report, which had been adopted by the Political Affairs Committee on 28 February 1985(

) (by 16 votes to 8, with 13 abstentions). In that proposal, the rapporteur considered that the goal of a uniform electoral procedure should be attained in s

Thus underlying the 1985 proposal is the intention that the various electoral systems used by the Member States for European elections should be gradually harmonised on the basis of a proportional electoral system with lists. The electoral procedure may essentially be said to be uniform in so far as the votes cast have the same value everywhere when it comes to counting them and allocating seats. The Member States retain a certain degree of latitude as regards the other aspects of the electoral system (national or regional constituencies, preferential vote, minimum threshold, etc.).

Faced with a situation in which there was only a small majority in favour of the proposal adopted by the Committee on Political Affairs and a difference of opinion on the part of the Committee on Legal Affairs, the coordinators of the two committees concerned decided to set up an intergroup working party which would be responsible for finalizing a proposal for an electoral system which would receive the support of the political groups and be acceptable to the twelve Member States.

As early as its first meetings (March to July 1986) the intergroup working party agreed on the following basic principles:

- (a) Parliament's proposal must provide for the highest possible degree of uniformity;
- (b) the uniform electoral procedure must involve a balanced compromise between list-based proportional voting and the constituency-based voting for individual candidates;
- (c) Parliament should endeavour to represent the various national, regional and ideological trends in evidence within the Community on the basis of their relative numerical importance;
- (d) the Member States should retain only the power to regulate the division of their territory into constituencies (exceptions and derogations included) and the admission of candidates from new parties or electoral alliances;
- (e) the basic territorial unit of the electoral system should be the constituency (possibly a regional one), which provides a link between Members and their constituencies;
- (f) electors should have only one vote, which they may cast only for the candidate of their choice (compulsory preferential vote);

() (by 16 votes to 8, with 13 abstentions). In that proposal, the rapporteur considered that the goal of a uniform electoral procedure should be attained in stages, and that the concept of 'uniformity' did not mean absolute
) Doc. PE 132.437, 13.7.1989

- (g) the votes should be counted at Member State level;
- (h) the introduction of a minimum threshold should not be allowed.

The working party tried to gain the support of its UK colleagues by submitting a proposal which combined constituencies and voting for individual named candidates with the distribution of seats on the basis of lists and the percentage of the votes secured. For most Member States this proposal would therefore mean abandoning the principle of closed lists, whilst the British would have to drop their system of single-member constituencies for the purpose of the European elections.

The detailed rules to be laid down in the proposal were finalized towards the end of 1986 and the text was adopted on 10 December of that year. To clear the way for unanimous adoption the problems created combining voting for individual named candidates with proportional voting had to be solved. To do this the working party opted for the Hare-Niemeyer counting system which, according to the experts who were consulted on the matter, had the advantage of being less complicated than the d'Hondt system.

As regards the division of a country into constituencies, the working party set the minimum number of Members per multi-member constituency at five. For the few cases in which a candidate came first in a constituency but did not obtain a seat as a result of the allocation of votes on a proportional basis at national level, a provision was introduced which to ensure that such a candidate would in any event secure a seat.

Lastly, the working party incorporated into its text a number of provisions relating to the admission of candidates from new parties or new electoral alliances and to the reimbursement of electoral campaign expenses.

In December 1986, after about 10 meetings, the intergroup working party adopted a revised version of the uniform electoral system provisions as proposed in the report by the Committee on Political Affairs. The working party had endeavoured to secure the agreement of the UK representatives by submitting a proposal which represented a half-way house between UK and continental practices.

This proposal combined the division of a country into constituencies and voting for a specific candidate (characteristic of the UK system) with the distribution of seats on the basis of lists and the percentage of the vote obtained (in accordance with the continental system). However, this proposal would require most of the Member States to abandon closed lists and the United Kingdom to drop its system of single-member constituencies for the purpose of European elections.

Although the members of the working party adopted each article of the proposal by a large majority and although all the permanent members of the group supported the proposal in its entirety, the reaction of most of Parliament's political groups was somewhat reserved. Consequently, Parliament was unable to submit a proposal for a uniform electoral procedure to the Council early enough for it to be implemented in time for the June 1989 Parliament elections.

In November 1988 the Enlarged Bureau considered the results of the intergroup working party's activities and the subsequent procedure to be followed thereafter. Following a thorough exchange of views the Enlarged Bureau noted that the political groups had not yet come to an agreement and that the discussion only had any practical value if the uniform electoral procedure

could be introduced before the next elections. The political groups were called upon to give further consideration to the matter.

4. The De Gucht reports

Following the 1989 elections, Mr De Gucht was appointed rapporteur. The preparation of his report was a long-term operation (it took nearly three years), and necessitated the creation of an informal working party within the Committee on Institutional Affairs, comprising the chairman, the rapporteur and a representative of each political group.

After lengthy, patient negotiations, thanks to the tenacity of the rapporteur, the Committee on Institutional Affairs managed to reach a consensus and tabled an interim resolution which was adopted on 10 October 1991(

) by 150 votes to 26, with 30 abstentions, and subsequently a final resolution which was adopted on 10 March 1993() by 207 votes to 79, with 19 abstentions.

The approach adopted was based on the idea that the initiative should be taken up again and that a broad consensus should be sought in order to achieve a satisfactory outcome. To do this a process was needed which would advance in stages.

The rapporteur also took the view that the concept of uniformity did not require the electoral procedure to be uniform in every respect but merely that the basic features of the procedure should be harmonized.

This idea prefigures to some extent the concept of common principles which would subsequently be incorporated into the Amsterdam Treaty.

In the De Gucht report, Parliament called for the uniform electoral procedure to be based on a system of proportional representation, taking account of the votes cast throughout the territory of each Member State. Preferential voting was provided for, as was the possibility of setting a threshold of between 3% and 5% of the votes cast.

In order to take account of the question of the United Kingdom, Parliament proposed that, if a Member State used a single-member constituency system, not more than two-thirds of the seats could be distributed according to that system, with the remaining third being distributed in such a way as to ensure that the overall distribution of seats was in proportion to the total votes cast.

Following the 1994 elections, Parliament called for this proposal to be examined by the Member States. The Council, pressed by Members of the European Parliament, responded by means of parliamentary questions. During Question Time on 14 December 1994 the Council President, Mr Von Ploetz, stated that he was minded to take the European Parliament's proposal further, whereas his immediate successor, Mr Lamassoure, considered that Parliament's text was too general in nature to constitute a proposal within the meaning of Article 138 of the Treaty, and was insufficiently specific to enable the Council to draw up a full proposal for an electoral system (Question Time, 17 January 1995).

() by 150 votes to 26, with 30 abstentions, and subsequently a final resolution which was adopted on 10 March 1993() OJ C 280,

28.10.1991, p. 141

() by 207 votes to 79, with 19 abstentions.) OJ C 115, 26.4.1993, p. 59

This last statement of position was a skilful move, because if the resolution had turned out not to satisfy the conditions laid down in Article 138, an action for a declaration of failure to act, as had been suggested by Mr De Vries, Chairman of the ELDR Group, would not have been admissible in the absence of a statement of position by the European Parliament.

The doubts about this point, despite it being of only theoretical interest at that juncture, would emerge during the IGC, as we shall see below.

At least in respect of their own Member State, a number of prominent figures have called for a voting method which brings elected representatives closer to the general public. Thus on the eve of the Turin European Council in March 1996 Mr Chirac, the French President, called for a regionally-based method of proportional voting, which would increase the legitimacy and the representativeness of MEPs.

In June 1996, following the work of a committee set up to reform the European election voting procedure, the Mouvement Européen (France) published a report which called unambiguously for this kind of voting method, a choice which it justified by means of arguments based on the Community's tripartite structure (Council, Commission and Parliament) and the requirement for a compromise based on interinstitutional needs(1).

NATIONAL LEGISLATION IN THE MEMBER STATES()

Constituency boundaries

Eleven Member States (Austria, Denmark, Finland, France, Germany, Greece, Luxembourg, the Netherlands, Portugal, Spain and Sweden) use a single-constituency system. For some of them, this choice is attributable to their limited population and national territory. The Federal Republic of Germany has a special system in which the political parties may submit lists of candidates either at *Land* level or nationally. Finland permits the submission of lists of candidates either for the regional constituencies or nationally; in 1996 all the political parties opted for the national list system.

Three Member States (Belgium - which operates a system with special features - , Ireland and Italy) have divided their national territory into regional constituencies.

The British Parliament is preparing to consider a bill providing for a regional proportional representation system.

Preferential voting

(1) Report by the committee on the reform of the voting method for elections to the European Parliament (June 1996), p. 16.

(2) Source: 'Legislation governing elections to the European Parliament' (Political series 13/rev.2), January 1997 - EP Directorate General for Research.

Nine Member States permit preferential voting: Austria, Belgium, Denmark, Finland, Ireland (the Irish system, which is also used in Northern Ireland, is a single preferential transferable voting system in which candidates are listed in alphabetical order on the ballot paper; each voter votes for one candidate and indicates in order of preference the candidates to whom his vote

should be given if his first-choice candidate has already received the number of votes necessary for election; this system is de facto similar to proportional representation), Italy, Luxembourg (which also permits vote-splitting between lists), the Netherlands and Sweden.

The electoral quotient

Five Member States operate a qualifying hurdle: Germany (5%), France (5%), Austria (4%), Sweden (4%) and Greece (3%).

For the other Member States, the hurdle sets itself according, in particular, to the system used for distributing remainders. By and large, a fairly marked convergence between the electoral systems of the Member States, based on the principles of proportional representation, may be noted.

THE INTERGOVERNMENTAL CONFERENCE AND THE RESULTS OBTAINED IN THE TREATY OF AMSTERDAM

In a number of different resolutions addressed to the IGC, Parliament expressed itself in favour of a uniform electoral procedure and called on the Member States to implement Article 138 of the Treaty for the next European elections().

On 22 October 1996, at the IGC, the Government of the Federal Republic of Germany tabled a proposed modification of Article 138(

) which reproduced in full the motion for a resolution presented in the De Gucht report, which was adopted by the European Parliament in March 1993.

In the course of the IGC the Presidents of the European Parliament, Mr Hänsch and Mr Gil-Robles, at the level of ministerial meetings, and Mrs Guigou and Mr Brok, at meetings of the personal representatives, repeatedly reiterated the European Parliament's attachment to such a system, in both their written submissions and their oral contributions.

Mr Blair's new Labour Government which was elected in the United Kingdom in May 1997 has very substantially shifted the United Kingdom's stance on this question, which had also been debated between the Labour Party and the Liberal Democrats during the election campaign, and on which those two parties have adopted a common approach.

The last few weeks of the Intergovernmental Conference saw increased willingness on the part of the Member States to achieve some progress on this issue. The various possibilities mentioned at the IGC were as indicated below. The first option was to include a deadline for the adoption of the electoral procedure in the new Treaty. The second option was based on incorporating the principles of the procedure into the Treaty itself. The third (rather unrealistic) option would have entailed adopting the electoral procedure by a qualified majority. There was even a suggestion

(¹) Resolutions of 16 January 1997 (OJ C 33, 3.2.1997, p. 63), 13 March 1997 (OJ C 115, 14.4.1997, p. 165) and 11 June 1997 (OJ C 200, 30.6.1997, p. 70)

() which reproduced in full the motion for a resolution presented in the De Gucht report, which was adopted by the European Parliament in March 1993.
) CONF 3960/96

that different solutions could be used provided that a particular procedure secured the support of a minimum number of Member States().

(¹) Presidency report of 17 June 1996 - CONF 3860/96 rev. 1, p. 20

A consensus very quickly formed around the proposal for a reference in the Treaty to 'principles common to' all Member States. This concept takes account of the political reality of all the Member States and does not require an across-the-board harmonization of the electoral procedure.

The Treaty adopted in Amsterdam therefore includes the following addition to Article 138(3): '3. The European 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.'

The situation in general seems to be sufficiently ripe to envisage, with a degree of hope, the adoption of an electoral system based on principles common to all the Member States.

PROPOSALS

First of all, we need to consider the concept of 'common principles', initially by examining those aspects which your rapporteur believes are not included in that concept.

It seems clear that provisions concerning the entitlement to vote (age, exclusion), eligibility for election or incompatibilities, and likewise provisions concerning the conduct of election campaigns, are not included in the concept of common principles, provided that they respect the principles of liberty, democracy and human rights laid down in Article F of the Treaty on European Union (this condition appears to be met at present in all 15 Member States).

It goes without saying that the Member States retain the power to determine the way in which the right to vote is exercised (e.g. optional or compulsory).

The Act of 20 September 1976 prohibits the casting of more than one vote. The directive of 6 December 1993(

) lays down detailed arrangements for the exercise of the right to vote and to stand as a candidate in elections to the European Parliament for citizens of t

Inclusion on the electoral roll is subject to a number of conditions (Article 9) and cooperation is established between the Member States in the form of an exchange of necessary information (Article 13).

This directive came into force in time for the 1994 European elections.

() lays down detailed arrangements for the exercise of the right to vote and to 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 nation

) OJ L 329, 30.12.1993, p. 34

The incompatibilities issue has already been settled by means of the Act of 20 September 1976, Article 6 of which lists the offices at Community level which are incompatible with the office of MEP and enables each Member State to lay down incompatibility rules at national level. However, Article 7(2) of the Act states that, pending the entry into force of a uniform electoral procedure, the electoral procedure shall be governed in each Member State by its national provisions.

By introducing the concept of 'common principles' the Amsterdam Treaty will enable the Member States to retain their powers in this area if the future electoral system is based on this concept, rather than on a uniform system.

However, the development of Parliament's powers and responsibilities makes it increasingly difficult (if not impossible) for its Members to hold some other office at the same time.

In these circumstances, given the way in which the European Parliament's powers have evolved since 1976, it would now be appropriate to make the office of MEP incompatible with that of Member of a national parliament. Where other offices are concerned (mayor of a large city or Member of a regional parliament), the question remains open and should be debated.

The principles which are common to the Member States are based on the aspects set out below.

Proportionality should take account, overall, of the votes cast throughout the territory of the Member State so as to enable the full range of views within the Member States to be taken into consideration and represented.

A proportional voting scheme seems entirely suited to the current nature of the Community system since it represents a useful compromise between justice and efficiency, given the political composition of the Council and the Commission. The political majority which emerges within those two institutions generally reflects the one which emerges following elections to the European Parliament.

Until there is a proper European government in place, operating on the basis of a majority system, and also a European opposition, the proportional system will continue to perform a political function which seems broadly justified at the current stage of European integration.

Since the electoral system is based on 'common principles', each Member State must be allowed to retain its preferred type of proportional system. The indication in the Act to the effect that the chosen system of voting is the proportional one is sufficient from both the legal and the political points of view.

The distribution of remainders should continue to be governed by national electoral legislation, in that traditions differ widely on this point. However, the principles of distribution must respect the system of proportional representation.

1. The 'close relationship' principle

The European Parliament's responsibility in the institutional system of the European Union, and in particular in its role as 'democratic pillar', is primarily based on its capacity to 'Europeanize' issues().

One possible way of achieving this is dependent on having an electoral system which will mobilize the maximum number of voters.

(¹) Jean Blondel, Richard Sinnott and Palle Svensson, 'People and Parliament in the European Union: participation, democracy and legitimacy'; Oxford University Press, June 1998, p. 16

If citizens do not vote, or vote only for national political reasons relating to each Member State, such elections will have no effect on the legitimacy of the Union().

Your rapporteur is convinced that one of the factors which would strengthen that legitimacy and voter turnout, and would end the 'second order' nature of the European elections, would be a change in the electoral system.

This assessment of the electoral system is tied up with a substantial strengthening of the links between the electorate and its representatives.

This can only be brought about by implementing the 'close relationship' principle.

The goal of a close relationship between European citizens and their representatives must entail (depending on the size of the Member State) the existence of territorial constituencies, so as to enable voters and Members of the European Parliament to establish a direct and effective relationship. The term 'territorial constituency' seems better suited to the different situations of the Member States, since it makes it possible to include all shades of meaning and specific characteristics while avoiding any misunderstandings regarding the term 'region'. To avoid the creation of artificial constituencies without historical or geographical links (particularly in small or medium-sized Member States), it is proposed that the establishment of territorial constituencies should be made obligatory only in the case of those Member States whose population exceeds 20 million inhabitants. Beneath this threshold the system would remain optional.

To enable the Member States concerned (those whose population exceeds 20 million inhabitants) to make the necessary changes, it is proposed that this measure should be brought into effect in time for the European elections in 2004.

The United Kingdom is preparing to adopt a system of regional proportional representation(

), while in France, the Minister of European Affairs, Mr Moscovici, has presented to the Prime Minister a proposal to introduce a system of regional proportional representation in which the regions would be grouped in *Départements* and Territories).

(¹) Op. cit, p. 20

() , while in France, the Minister of European Affairs, Mr Moscovici, has presented to the Prime Minister a proposal to introduce a system of regional proportional representation in which the regions would be grouped in) See attached text

Mr Barnier, the former Minister of European Affairs under the Juppé Government, has tabled a bill in the Senate, with the support of 50 other Senators, whereby the regions would be grouped together in eight constituencies; this plan was in the pipeline during his period as a government minister.

In April 1998 President Chirac and the Prime Minister, Mr Jospin, declared themselves in favour of a regional voting system. France's electoral legislation should be amended in time for the European elections in 1999.

Depending on the political traditions of each Member State, any Member State must be able to authorize preferential voting, so as to increase the possibility for voters to choose between different candidates on the same list or even on different lists.

Your rapporteur is convinced that it is a matter of extreme importance to the European Union for the legislative functions of the European Parliament to be strengthened (even if not everyone is sufficiently aware of this yet). The same applies to the political responsibilities incumbent upon the European Parliament.

Your rapporteur believes that strengthening the European Parliament depends on four factors:

- the content of its work, which has frequently been original and of high quality,
- awareness of its responsibilities in carrying out its functions,
- deepening the relationship between European citizens and their elected representatives so as to allow the latter to take account of the aspirations of the former,
- strengthening the political representativity of its Members.

In the past, this last point has been the subject of a number of doubts expressed about the representative nature of a portion of its Members. This controversy springs from the method of voting, which fairly frequently takes the form of a system of national lists, without the possibility of preferential voting in some cases, whereas smaller constituencies are often used for national elections in some Member States.

This situation, for instance, prompted Mr de Charette, the French Minister of Foreign Affairs at the time of a disagreement with the European Parliament in March 1997, to state that Parliament had a serious problem regarding representativity.

At the Rome European Council in October 1990, the President of the European Parliament, Mr E. Barón Crespo, likewise noted, '...The atmosphere was tense. My own speech, particularly as regards "double democratic legitimacy" and the eternal question of the seat of the European Parliament, gave rise to some lively and critical reactions in the discussion that followed and which later appeared in the press. ..."Double democratic legitimacy", which, it seems, triggered a debate between the political leaders'(.).

This was echoed by the Italian Minister of Foreign Affairs, Mr de Michelis, as was noted in the press at the time.

(¹) Enrique Barón Crespo, 'Europe at the dawn of the Millennium' (the 'Rome I' Council, p. 69), London 1997

While regional constituencies remain an objective which it is difficult to attain at present, progress must nonetheless be made in that direction. It likewise seems highly desirable to introduce the possibility of preferential voting, in order to put an end to polemics concerning the representativity of Members of the European Parliament. Your rapporteur is convinced that everything must be done to enhance a close relationship with the electorate.

This is why a gradualist approach is extremely important, with the aim of arriving at territorial divisions for the Member States with the largest populations, while leaving them the responsibility of deciding the number and size of such constituencies.

The political differences amongst the Member States mean that preferential voting must remain an option since, in the countries in which it is authorized, the advantages outweigh the drawbacks in terms of closeness to the electorate, the representativeness of those elected and electoral participation. Such a system is, however, criticised in certain quarters for encouraging excessively close links between candidates and voters and for provoking in-fighting amongst candidates on the same list.

This risk, although not insignificant, must be assessed by each Member State in the light of its own specific situation. However, this comment does not alter the firm beliefs held by your rapporteur: candidates must be chosen democratically by the political parties, whilst the expression of the electors' choice by means of a preferential vote brings the voting public closer to their elected representatives and increases the European Parliament's legitimacy.

The representation of women is a matter of major concern, justified by the fact that they constitute a majority of the population of the Member States. A specific proposal in connection with the European electoral procedure does not appear to be necessary. Any attempt to enhance their representation depends, above all, on the will of the political parties, who may introduce quotas if it proves necessary to do so. Your rapporteur endorses the guidelines adopted by the Inter-Parliamentary Symposium in New Delhi in February 1997.

In this connection it should be pointed out that candidates must be given equal treatment by all the media.

Your rapporteur believes that there should be a ban on the publication of opinion polls relating to the European elections in the last two weeks before polling day.

However, such a ban would be unenforceable in so far as modern technologies (the Internet, for example) could be used as a very easy way of getting round it.

Nonetheless, there should at the very least be a ban on the publication anywhere in the European Union of exit polls before voting closes in the Member States whose electors are the last to vote, so as not to influence electors who have not yet cast their vote.

The setting of a minimum threshold for the award of a seat is a delicate issue. In these circumstances, a threshold should remain optional, but in any event the threshold may not exceed 5% of the votes cast.

Some Member States have a number of specific regional characteristics. The Member States concerned must be able to make arrangements to take account of these, but without violating the principle of proportional representation of those various situations.

Finally, provided that they comply with the basic principles of the proportional system, the Member States may make provision for adjustments to the distribution of seats in order to avoid certain political currents not being represented. For example, if a Member State has a regional system, it could arrange to distribute seats to lists which fail to achieve the electoral quotient in certain regions by grouping together the remainders of unused votes intra-regionally or nationally.

2. The question of trans-national lists

The establishment of trans-national lists for the European elections was deemed Utopian a few years ago but this idea is now making some headway.

Such a system (restricted to 10% of the total number of seats within Parliament) would certainly contribute to the emergence of a genuine European political awareness and to the establishment of proper European political parties. It would also give European elections a more European dimension which would be less concerned with national political issues.

Such a change to the representation system would allow a suitable balance to be struck between the supporters and opponents of the regional proportional system.

To enable this significant political change to be properly prepared, an appropriate provision should be brought into effect in time for the 2009 European elections.

In view of a number of reservations which were expressed during the debate in committee about the compatibility of this proposal with the Treaty, the chairman of the Committee on Institutional Affairs requested an opinion from the European Parliament's Legal Service().

In its opinion, the Legal Service points out that Members of the European Parliament represent the peoples of the States brought together in the Community, but that a limited exception to the links with the framework of States was brought in by the Maastricht Treaty, which introduced the right to vote and stand in elections to the European Parliament for citizens residing in a Member State other than their own. Consequently, representation of the peoples of the Community which crosses State frontiers is possible, and is not alien to the principles of the Treaty, although Articles 189 and 190 of the EC Treaty would have to be modified, of course.

Over the years, politicians who have had a prominent career in domestic politics have also been Members of the European Parliament. France has provided a significant number of such figures, who include, amongst others, V. Giscard d'Estaing, F. Mitterrand and J. Chirac (President of France), M Debré, E. Faure, P. Mauroy, P. Messmer, P. Pflimlin, A. Pinay, R. Pléven, P. Reynaud, R. Schuman, Edith Cresson, M. Rocard, A. Juppé and L. Jospin (Prime Minister), and also G. Marchais and J. Delors.

As far as the other Member States are concerned the following may be mentioned: K. Kiesinger, W. Brandt, W. Scheel, H. Schmidt (Germany), J. Duvieusart, P.H. Spaak and, more recently, L. Tindemans and W. Martens (Belgium), P. Schlüter (Denmark), L. Calvo Sotelo (Spain), G. Andreotti, E. Colombo, B. Craxi, A. De Gasperi, C. De Mita, A. Fanfani, G. Pella, M. Rumor, M. Scelba, A. Forlani and G. Gorla (Italy), G. Thorn, J. Santer and P. Werner (Luxembourg) and L. De Pintasilgo (Portugal), who were Prime Ministers (except for W. Scheel, who was Federal President), J. Prescott (British Deputy Prime Minister), E. Averoff-Tosizza (Greek Deputy Prime Minister) or leaders of major parties, as in the case of E. Berlinguer.

(¹) Opinion of 20 February 1998 (SJ - 28/98)

Some MEPs have expressed the wish that the elections should be held on the same day in all the Member States. So far the differences in voting traditions between the various Member States have meant that they have been allowed to hold the election at any time between a Thursday morning and a Sunday evening (Article 9 of the Act of 20 September 1976).

It is obvious that holding the election on the same day would have a highly beneficial impact from the point of view of the political issues and hence the turnout. Most Member States have a preference for Sunday.

The difficulty arises with traditions and religious considerations which make it impossible to hold an election on Sundays in Denmark, the Netherlands, the United Kingdom and Ireland. In Germany or France, by contrast, elections are held on Sundays because polling stations are mostly located in schools.

Your rapporteur approves the idea of setting Sunday as election day. One possible compromise might be to hold the elections over a two-day period, and choosing Saturday and Sunday would enable the election period to be halved. This would also satisfy the religious requirements of the various confessions.

This second solution has certain advantages, in that it accommodates certain sensitivities, but entails other drawbacks. In any event, we must move away from the present status quo.

It would also be advisable to ensure that European elections are held during the month of May, owing to the existence of many national days or religious festivals in June (especially in Portugal). In some Member States, too, (notably in Scandinavia) the school summer holidays start as early as June.

May appears preferable to any other option. In particular, it would make it possible to hold Parliament's constituent part-session at the end of June or beginning of July and to bring forward the start of the new Parliament's work.

Holding the elections in the autumn, for example, would entail problems of timetabling with regard to adoption of the budget and the investiture of the President of the Commission.

C
ANNEXES

Table summarizing electoral legislation on European elections in each Member State (as at 29 January 1998)

	No. of seats	Constituency boundaries	Voting method	Preferential voting	Distribution of seats	Allocation of seats	Entitlement to vote	Eligibility for election	Nomination of candidates
BELGIUM	25	Four constituencies: - Flemish - Walloon - Brussels-Hal-Vilvoorde - German-speaking	Proportional	Yes Voting is compulsory	D'Hondt method	According to the number of preferential votes received	Age: 18 Conditions: must be resident in Belgium and not have been deprived of right to vote in home Member State	Age: 21 Must be entered on a Belgian electoral roll Must speak the language corresponding to the constituency chosen	List of candidates must be endorsed: - either by 5 Belgian MPs belonging to the same linguistic group - or by 5000 voters from the constituency chosen (200 for the German-speaking constituency)
DENMARK	16	Single national constituency (minus the Faeroes and Greenland)	Proportional	Yes	D'Hondt method	According to the number of preferential votes received	Age: 18 Conditions: must be entered on the population register	Same conditions as for entitlement to vote	Rules for nominations: - parties which won seats in the last parliamentary elections (automatically) - parties whose lists are supported by at least 2% of the valid votes cast in the last parliamentary elections Maximum of 20 names per list Lists may be linked

	No. of seats	Constituency boundaries	Voting method	Preferential voting	Distribution of seats	Allocation of seats	Entitlement to vote	Eligibility for election	Nomination of candidates
GERMANY	99	Single constituency Members are elected either from <i>Land</i> or from Federal lists	Proportional	No (voting for a list only)	Hare-Niemeyer method Lists obtaining fewer than 5% of votes at Federal level do not qualify	According to the order in which names appear on the lists	Age: 18 Conditions: must be resident in Germany for the 3 months preceding the election	Same conditions as for entitlement to vote	Lists of candidates may be: - either submitted by <i>Land</i> - or grouped together on a single list for all the <i>Länder</i> Political parties and political associations may submit lists They must: - either have 5 Members of the Bundestag or a Landtag - or collect 4000 (Federal list) or 2000 (<i>Land</i> list) signatures
GREECE	25	Single national constituency	Proportional	No (voting for a list only, preferential voting prohibited) Voting is compulsory	See 'Allocation of seats'	According to the order in which names appear on the lists Lists obtaining fewer than 3% of votes do not qualify	Age: 18	Age: 21	Only political parties or party coalitions may submit lists Maximum of 25 candidates on each list
SPAIN	64	Single national constituency	Proportional	No (voting for a list only)	D'Hondt method	According to the order in which names appear on the lists	Age: 18 Condition: must be resident in Spain	Same conditions as for entitlement to vote	Parties, coalitions and groups of voters may nominate candidates if they: - either collect the signatures of 15 000 voters - or collect the signatures of 50 elected representatives

	No. of seats	Constituency boundaries	Voting method	Preferential voting	Distribution of seats	Allocation of seats	Entitlement to vote	Eligibility for election	Nomination of candidates
FRANCE	87	Single national constituency (including over-seas departments and territories)	Proportional	No (voting for a list only)	D'Hondt method Lists obtaining fewer than 5% of votes cast do not qualify	According to the order in which names appear on the lists	Age: 18 Conditions: must be resident in France and registered on an additional electoral roll	Age: 23 Other conditions same as for entitlement to vote	Submission of lists by the candidate heading the list Deposit of FF 100 000, reimbursement of which is subject to conditions (election results)
IRELAND	15	Four constituencies: - Dublin (4 seats) - Munster (4 seats) - Leinster (4 seats) - Connacht/Ulster (3 seats)	Proportional	Single transferable vote	See 'Allocation of seats'	To be elected, candidates must obtain a pre-established quota of votes ()	Age: 18 Conditions: must apply for registration on the national electoral roll	Age: 21 Other conditions same as for entitlement to vote	Candidates may: - nominate themselves - be nominated by a third party Deposit of £Irl 1000, reimbursement of which is subject to conditions (election results)
ITALY	87	Five constituencies: - North-West (23 seats) - North-East (16 seats) - Centre (17 seats) - South (21 seats) - Islands (10 seats)	Proportional	Yes (votes may be transferred from one constituency to another)	Carried out at national level (a quotient is established determining how many votes are needed to win a seat)	According to the number of preferential votes obtained (the preferential vote is subject to quotas set for each constituency)	Age: 18 Condition: must be registered on the electoral roll 90 days before the elections	Age: 25 Condition: must meet the eligibility criteria in the home Member State	Parties and political groups which won at least 1 seat in the Euro-pean Parliament at the previous election may submit lists of candidates Individual nominations if endorsed by at least 3000 signatures

(¹) The system for allocating seats used in Ireland is a variant of the 'Droop Quota'. To be elected, candidates must obtain a pre-established number of votes (quota) obtained by dividing the total number of valid votes by the number of seats + 1 and adding 1 to the result of that division ($(\text{votes} \div (\text{seats} + 1)) + 1$). Vacant seats are filled by candidates on the various lists who obtain a number of votes higher than the quota, in accordance with the preferences expressed by voters (decimal places are not taken into account)

	No. of seats	Constituency boundaries	Voting method	Preferential voting	Distribution of seats	Allocation of seats	Entitlement to vote	Eligibility for election	Nomination of candidates
LUXEMBOURG	6	Single national constituency	Proportional	Yes Voting is compulsory Each voter has 6 votes	D'Hondt method Vote-splitting is permitted	According to the number of preferential votes obtained	Age: 18 Conditions: must be resident in Luxembourg and be registered on the electoral roll	Age: 21 Other conditions same as for entitlement to vote	Lists must be submitted: - by 250 voters or - by a Member of the European Parliament or - by a Luxembourg MP
NETHERLANDS	31	Single national constituency	Proportional	Yes	D'Hondt method at national level	According to the number of preferential votes obtained	Age: 18 Condition: must be entered on the population register	Age: 18 Other conditions same as for entitlement to vote	Candidates nominated by political parties Lists can include up to 40 names Deposit of Fl 18 000 required for parties not represented in the European Parliament
AUSTRIA	21	Single Federal (national) constituency	Proportional	Yes	D'Hondt method Lists obtaining fewer than 4% of votes cast do not qualify	According to the number of preferential votes obtained Candidates must have gained at least 7% of the total votes cast for their party	Age: 18 Condition: must be resident in Austria and registered on an electoral roll	Age: 19 Same conditions as for entitlement to vote	Nominations submitted by political parties endorsed by: - 5 Austrian MPs or - 2 MEPs or - 2600 signatures
PORTUGAL	25	Single national constituency	Proportional	No (voting for a list only)	D'Hondt method	According to the order in which names appear on the lists	Age: 18 Condition: must be resident in Portugal and registered on the electoral roll	Same conditions as for entitlement to vote	Lists submitted to the Constitutional Court Number of names on lists must as equal to the number of MEPs to be elected
FINLAND	16	Single constituency (the 4 constituencies - South, West, North and East - are brought together to form a single constituency for elections to the European Parliament)	Proportional	Yes	D'Hondt method	According to the number of preferential votes obtained	Age: 18 Conditions: must be resident in Finland for more than 1 year before the election, and apply to vote	Same conditions as for entitlement to vote No-one placed under supervision or on active military service may stand	Nominations submitted at either constituency or national level Must be submitted: - by a political party or - by a voters' association of at least 1000 voters (putting up candidates in a constituency)

	No. of seats	Constituency boundaries	Voting method	Preferential voting	Distribution of seats	Allocation of seats	Entitlement to vote	Eligibility for election	Nomination of candidates
SWEDEN	22	Single national constituency	Proportional	Yes	Modified St Laguë method Parties obtaining fewer than 4% of votes cast nationally do not qualify	According to the number of preferential votes obtained Candidates failing to obtain at least 5% of the total number of votes cast for their party do not qualify	Age: 18 Condition: must notify the tax authorities, who keep the population register	Same conditions as for entitlement to vote	Parties and candidates are not obliged to collect a given number of signatures for their nomination Nominations submitted to the central authority
UNITED KINGDOM	87	Divided into constituencies: - 71 seats in England - 8 seats in Scotland - 5 seats in Wales - 3 seats in Northern Ireland	England, Scotland & Wales: majority vote Northern Ireland: single transferable vote (see 'Ireland')	See 'Allocation of seats'	See 'Allocation of seats'	England, Scotland & Wales: seats won by candidates with the greatest number of votes Northern Ireland: according to the number of preferential votes (transfer of preferences decides 1st, 2nd & 3rd seats)	Age: 18 Condition: must be resident in UK	Age: 21 Same conditions as for entitlement to vote	Candidates need not be nominated by a political party Nominations in constituencies must be endorsed by 30 voters

Summary of methods for distributing seats in a system of proportional representation

In a system of proportional representation there are many different ways of distributing seats, and a presentation of the distribution mechanisms is therefore necessary. There are two main methods, namely the **electoral quotient method** and the **method of divisors**(¹⁾.

I. The **electoral quotient** is the most commonly used method. It is obtained by dividing the number of votes cast by the number of seats to be filled in each constituency. After voting has taken place, each list will receive as many seats as the number of electoral quotients it has obtained. There is also the *adjusted quotient* method, known as the **Hagenbach-Bischoff system**. In this system, the number of voters is divided by the number of seats to be filled, plus one, with the operation being repeated until all the seats have been distributed.

Under the **uniform number** system, a law lays down in advance, for the whole country, the number of votes needed for a list to secure a seat. Each list will be entitled to as many seats as the multiple of that number - known as the uniform number - contained in the total votes that it has obtained.

The **national quotient** is calculated by dividing the total number of votes cast in all of a country's constituencies by the total number of seats to be distributed. It cannot be determined, however, until the definitive election results are available.

The use of these methods, however, produces what are known as *remainders*, in other words unused votes and unfilled seats. There is then a choice between one of the two systems which enable these remainders to be used and the seats left vacant by the first distribution operations to be filled: **integral proportional representation** and **approximate proportional representation**.

Integral proportional representation brings together the remainders of each of the political groupings which presented lists and allocates as many additional seats as the multiple of the uniform number contained in the total of each grouping's remainders (the *uniform number* or *national quotient* methods referred to above are used). This procedure is rarely used.

Approximate proportional representation has two ways of distributing remainders: to the *largest remainder* or to the *largest average*.

A. The method of the largest remainder favours small political groupings, and consists in allocating the remaining seats to be filled to the lists with the largest number of unused seats. In each constituency, the remaining seats will be allocated to each list according to the decreasing number of votes unused after the first distribution. Small political parties which have failed to achieve the electoral quotient will thus benefit from this method.

(¹⁾ It will be seen, on reading these details, that while the methods presented may use different calculation processes, they sometimes produce the same results. For example, the electoral quotient method with the distribution of remainders to the largest average produces identical results to those obtained by the d'Hondt method.

B. The method of the largest average favours large political groupings. The procedure entails allocating a notional seat to each list, and the number of votes obtained by each list is divided by the number of seats that they obtained, plus one.

II. Another system is the **method of divisors**, which aims to divide the number of votes gained by parties in the constituency by a series of continuous numbers (series of divisors). The seats are allocated according to the size of the quotients obtained.

The **d'Hondt method** is an example of the method of divisors (it is based on the series of divisors 1, 2, 3, 4, etc., until the seats to be filled have all been distributed. It was in 1882 that Victor d'Hondt, a professor of law at the University of Ghent, presented a system for allocating seats to different political groups in Belgium, thus permitting proportional representation. The method had a great future ahead of it, because many Member States of the European Union now use it, in both national and European elections, to distribute seats among the different lists/candidates standing.

Bibliography

Studies and general works

Arnaldo Alcubilla, Enrique : "El derecho de sufragio de los ciudadanos comunitarios en el estado de residencia en las elecciones locales y europeas", in Los derechos del europeo, Madrid, 1993.

Attina, Fulvio : "Democrazia, elezioni e partiti nell'Unione Europea", in Dalla Comunita all'Unione Europea, Bari, 1994.

Bogdanor, Vernon : Proportional representation, London, 1992.

Bussy, Marie-Elizabeth de : Les troisièmes élections du Parlement européen au suffrage universel direct: 15-18 juin 1989. Une élection européenne ou douze élections nationales? Sélection multilingue d'articles, Fondation Nationale des Sciences Politiques, Paris, avril 1990.

Butler, David; Westlake, Martin : British politics and European elections 1994, London, MacMillan, 1995.

Castillo, Pilar del : "Spain: a dress rehearsal for the national elections", in Choosing Europe? The european electorate and national politics in the face of Union, Ann Arbor, 1996.

Collings, Neil : "Sharing the spoils: the european election in Connacht-Ulster", in Breaking and preserving the mould: the third direct elections to the european parliament 1989; the Irish Republic and Northern Ireland, Belfast, 1992.

Corbett, Richard : The elected European Parliament and its impact on the process of European Integration, Hull University, 1994 (unpublished manuscript).

Cotteret, Jean-Marie : Les systèmes électoraux, Paris, FNSP, 1970.

Daniels, Philip A. : "Italy", in The 1994 elections to the European Parliament, London, 1996.

Deelen, Bart Van : "The Benelux", in The 1994 elections to the European Parliament, London, 1996.

Eijk, Cees Van Der; Franklin, Mark N. : Choosing Europe? The European electorate and national politics in the face of Union, Ann Arbor, University of Michigan Press, 1996.

Eijk, Cees Van Der; Franklin, Mark N. : "Europäische Integration und elektorale Repräsentation", in Wahlen und Europäische Einigung, Opladen, 1994.

Eijk, Cees Van Der; Franklin, Mark N. : "The problem: representation and democracy in the European Union", in Choosing Europe?, The European electorate and national politics in the face of Union, Ann Arbor, 1996.

Ellis, Andrew : "European electoral trends", in CBI European Business Handbook, 2nd edition, London, 1995.

Farrell, David M. : Comparing electoral systems, London, 1997.

Fondation Nationale des Sciences Politiques : Les troisièmes élections du Parlement Européen au suffrage universel direct : 5-18 juin 1989, Paris, 1990.

Hainsworth, Paul : "Business as usual: the european election in Northern Ireland", in Breaking and preserving the mould: the third direct elections to the European Parliament 1989 - the Irish Republic and Northern Ireland, Belfast, 1992.

Hayward, Jack : The crisis of representation in Europe, London, Frank Cass, 1995.

Huber, Peter M : Die Rolle des Demokratieprinzips im europäischen Integrationsprozeß, Staatswissenschaften und Staatspraxis, 1992.

Jacobs, Francis; Corbett, Richard; Shackleton, Michael : The European Parliament, 3rd edition, London, Cartermill, 1995.

Jesse, Eckhard : "Wahlssysteme und Wahlrecht", in Gabriel, Oskar W. : Die EG-Staatenim Vergleich, 1992.

Lakeman, Enid : Twelve democracies: electoral systems in the European Community, 4th edition, London, The Arthur McDougall Fund, 1991.

Lenz, Christofer : Ein einheitliches Verfahren für die Wahl des Europäischen Parlaments - Unverwirklichte Vorgabe der Gemeinschaftsverträge, Nomos Verlagsgesellschaft, Baden-Baden, 1994.

Lodge, Juliet : "The European Parliament and Euro-elections: a quest for legitimacy and integration?", in The 1994 elections to the European Parliament, London, 1996.

Miles, Lee; Kintis, Andrea : "Appendix: the new members: Sweden, Austria, and Finland", in The 1994 elections to the European Parliament, London, 1996.

Nielsen, Hans Jorgen : "Denmark", in The 1994 elections to the European Parliament, London, 1996.

Nielsen, Hans Jorgen : "The Danish voters and the referendum in June 1992 on the Treaty of Maastricht", in European integration and Denmark's participation, Copenhagen, 1992.

Oberreuter, Heinrich : "Das Parlament als Gesetzgeber und Repräsentationsorgan", in Gabriel, Oskar W. : Die EG-Staatenim Vergleich, 1992.

Oppenhuis, Erik : "The Netherlands: small party evolution", in Choosing Europe? The European electorate and national politics in the face of Union, Ann Arbor, 1996.

Perrineau, Pascal; Ysmal, Colette : Le vote des douze: les élections de juin 1994, Paris, Presse de la Fondation Nationale des Sciences Politiques, 1995.

Reeve, Andrew; Ware, Alan : Electoral systems: a comparative and theoretical introduction, London, Routledge, 1992.

Reynolds, Andrew : The International IDEA handbook of electoral system design, Stockholm, 1997.

Rosas, Allan : "Electoral rights and the European Union: a broader human rights perspective", in The European Union and Human rights, Gravenhage, 1995.

Smith, Julie : Citizen's Europe? The European elections and the role of the European Parliament, London, The Royal Institute of International Affairs, 1994.

Smith, Julie : The European Parliament: representation, legitimacy and democracy, Thesis, Oxford, Brasenose College, 1995.

Smith, Julie : "How european are european elections?", in Political parties and the European Union, London, New York, 1996.

Symes, Susie : "Democracy and disillusion; the lessons of the 1994 european elections", in CBI European Business Handbook, 2nd ed., London, 1995.

Vanoosterwijck, J. : Code de l'élection du Parlement Européen: lois et arrêtés complémentaires, Kortrijk, UGA, 1995.

Verney, Susannah; Featherstone, Kevin : "Greece", in The 1994 elections to the European Parliament, London, 1996.

Worre, Torben : "Denmark: second-order containment", in Choosing Europe? The european electorate and national politics in the face of Union, Ann Arbor, 1996.

Articles in journals

Alvarez Conde, Enrique; Alcubilla, Enrique Arnaldo : "De nuevo sobre el procedimiento electoral uniforme", Revista de estudios políticos, 86, 1994.

Ameglio, Federica : "Una proposta per l'Europa: una procedura elettorale uniforme per l'elezione del Parlamento europeo", Affari Sociali Internazionali, Milano, anno 14, n°2, 1986.

Attina, Fulvio : "Parties, party systems and democracy in the European Union", The International Spectator, 3, July-September 1992.

Bardi, Luciano : "Transnational trends in European parties and the 1994 elections of the European Parliament", Party politics, 1, January 1996.

Blanke, Hermann-Josef : "Der Unionsvertrag von Maastricht - Ein Schritt auf dem Weg zu einem europäischen Bundestaat?", Öffentliche Verwaltung, n°10, 1993.

Boest, Reinhard : "Ein langer Weg zur Demokratie in Europa. Die Beteiligungsrechte des Europäischen Parlaments bei der Rechtsetzung nach dem vertrag über die Europäische Union", Europarecht, n°2, 1992.

Borchmann, Michael : "Das Europäische Parlament - "Scheinparlament ohne ausreichende demokratische Legitimation?", Europäische Zeitschrift für Wirtschaftsrecht, 1992.

Casciaro, Ines : " L'elezione del Parlamento Europeo: i dodici sistemi elettorali attuali e i progetti per un sistema elettorale uniforme", Quaderni dell'osservatore elettorale delle Regione Toscana, 24, luglio-dicembre, 1990.

Chantiel, Florence : " La loi française sur le droit de vote des citoyens européens aux élections européennes", Revue du Marché Commun et de l'Union Européenne, 381, septembre-octobre 1994.

Charlot, Monica : "Résultats et retombées de l'élection européenne en Grande-Bretagne", Revue politique et parlementaire, 971, 1994.

Closa Carlos : "The concept of Citizenship in the Treaty on European Union", Common Market Law Review, 1992.

Collinge, Michel : "Elections européennes en Belgique : géographie des voix de préférence", Courrier hebdomadaire du CRISP, 1990.

Curtin, Deirdre : "The Constitutional Structure of the Union: A Europe of Bits and Pieces", Common Market Law Review, 1993.

"European Parliament; the democratic dream", The Economist, 7864, 21-27 mai 1994.

Duff, Andrew : "Electoral Reform of the European Parliament; proposal for a uniform electoral procedure of the European Parliament to the intergovernmental conference of the European Union 1996", London, Federal Trust for the European Movement, avril 1996.

Everling, Ulrich : "Reflections on the structure of the European Union", Common Market Law Review, 1992.

Goldey, David B. : "Notes on the 1994 elections to the European Parliament: Portugal", Electoral Studies, 4, December 1994.

Hearl, Derek; Budge, Ian; Pearson, Bernard : "Distinctiveness of regional voting: a comparative analysis across the European Community (1979-1993)", Electoral Studies, 2, may 1996.

Hearn, Michael : "La dimension européenne des élections britanniques", Studia Diplomatica, 4, 1992.

Hin, Monika; Siedt, Gerd : " Europawahl 1994; erste Ergebnisse aus der Repräsentativen Wahlstatistik", Wirtschaft und Statistik, 7, Juli 1994.

Klingemann, Hans-Dieter : " Notes on the 1994 elections to the European Parliament: Germany", Electoral Studies, 4, December 1994.

Menudier, Henri : "Dossier: les voix du peuple allemand: les élections européennes du 12 juin 1994 en Allemagne", Documents, 5, 1994.

Millar, David : "A uniform electoral procedure for european election, Electoral Studies, 1, March, 1990.

Montero, José R.; Llera, Francisco J.; Torcal, Mariano : "Sistemas electorales en España: una recapitulacion", in Revista española de investigaciones sociológicas, 58, abril-junio 1992.

Piris, Jean-Claude : "Dopo Maastricht, le istituzioni comunitarie sono divenute piu efficaci, piu democratiche, piu trasparenti?", Rivista di diritto europeo, 1, gennaio-marzo, 1994.

Reif, Karlheinz : "Wahlen, Wähler und Demokratie in der EG. Die drei Dimensionen des demokratischen Defizits", Aus Politik und Zeitgeschichte, 19, mai 1992.

Santamaria Ossorio, Julian; Reniu Vilamala, Josep Maria; Cobos Sampedro, Vicente : "Los debates sobre el procedimiento electoral uniforme y las características diferenciales de las elecciones europeas, Revista Jurídica de la CE, 90, octubre-diciembre 1995.

Scoffoni, Guy : "Les relations entre le Parlement européen et les parlements nationaux et le renforcement de la légitimité démocratique de la Communauté", Cahiers de Droit Européen, 1992.

Silvestro, Massimo : "Droit de vote et d'éligibilité aux élections municipales et au Parlement Européen", European Institute of Public Administration, 4, 1994.

Sinnott, Richard; Whelan, Brendan J. : "Turnout in second order elections: the case of European Parliament in Dublin 1984 and 1989, Economic and Social Review, 2, january 1992.

Vries, Gijs de : "La procédure électorale uniforme du Parlement Européen: un pas pour rapprocher les citoyens", in Revue du Marché Commun et de l'Union Européenne, Paris, 399, juin 1996.

Widfeldt, Anders : "The Swedish european election of 1995", Electoral Studies, 1, 1996.

Ysmal, Colette : "L'Europe: futur enjeu électoral?", La Revue des Deux Mondes, 11, 1992.

Reports

Seitlinger, Jean : "Résolution du Parlement Européen sur la procédure électorale uniforme pour l'élection des membres du Parlement Européen", PE 64.569, 26 février 1982 (Résolution adoptée par le Parlement Européen le 10 mars 1982, PE 77.603).

Bocklet, Reinhold : "Rapport sur la situation et les perspectives d'une procédure électorale uniforme pour l'élection des membres du Parlement Européen", PE 132.437, 13 juillet 1989.

De Gucht, Karel : "Orientations du Parlement européen relatives au projet de procédure électorale uniforme pour les membres du Parlement européen", 10 octobre 1991 (Résolution A3-152/91)

De Gucht, Karel : "Résolution sur la procédure électorale uniforme: système de répartition du nombre des membres du Parlement Européen", 11 juin 1992 (Résolution A3-186/92).

De Gucht, Karel : "Résolution sur le projet de procédure électorale uniforme pour l'élection des membres au Parlement Européen", 10 mars 1993 (Résolution A3-0381/92).

Mouvement Européen-France, rapport de la commission présidée par Jean-Claude Casanova : "Réformer le mode de scrutin européen", Mouvement Européen France, in La Lettre des Européens, hors-série n°1, juin 1996.

Proposition de la Délégation allemande à la CIG pour modifier l'article 38 du Traité CE, Conf.3960/96, 22 octobre 1996.

Commission des Communautés Européennes : "Rapport de la Commission au Parlement européen et au Conseil sur l'application de la directive 93/109/CE (droit de vote et d'éligibilité aux élections au Parlement européen pour les citoyens de l'Union résidant dans un état membre dont ils ne sont pas ressortissants)", Bruxelles, janvier 1998.

B4-0723/96

Resolution on the uniform electoral procedure for the election of Members of the European Parliament

The European Parliament,

- having regard to its resolution of 10 March 1993 (A3-0381/92) on the draft uniform electoral procedure for the election of Members of the European Parliament,
- A. regretting that, three years on, the Council has still not adopted the slightest measure following up that resolution,
- B. recalling that, as it possesses the right of initiative in this area, the European Parliament has an obligation to take all necessary initiatives until a uniform electoral procedure is established,
 1. Requests the Council's cooperation to enable a uniform electoral procedure to be adopted in good time for it to be implemented, without fail, for the 1999 European elections;
 2. Instructs its President to maintain all appropriate contacts with the Council and the Member States to ensure the adoption of its draft;
 3. Instructs its committee responsible, if necessary following the contacts with the Council, to prepare a new draft uniform electoral procedure that could achieve the necessary consensus and be applied for the 1999 European elections.

SJ - 28/98

HK/am Strasbourg, 19 February 1998

LEGAL OPINION

Subject: Uniform electoral procedure - single territorial constituency - compatibility with the Treaty
Request for an opinion, dated 29 January 1998, from the Committee on Institutional Affairs

1. By letter of 29 January 1998 the Committee on Institutional Affairs asked the Legal Service to draw up an opinion on the compatibility with Article 137 of the EC Treaty of a proposal providing for a certain percentage of Members of the European Parliament to be elected within a single constituency comprising the territory of the European Union.

I. Background to the proposal

2. Where the various precedents regarding a uniform electoral procedure are concerned, the Legal Service refers readers to the background set out in Mr Anastassopoulos' working document of 14 January 1998().

3. The modification of Article 137 by the draft Treaty of Amsterdam enables the European Parliament to 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. On 16 October 1997 the Committee on Institutional Affairs was authorized to draw up an own-initiative report on the electoral procedure.

5. The committee's rapporteur, Mr Anastassopoulos, proposes to choose the second option in the new Article 138 (Article 190 of the consolidated version of the Treaty) and to restrict himself to drawing up a proposal for European elections which embodies principles common to all Member States. Accordingly, this legal opinion must be based on the future version of the Treaty.

6. Article 6 of the draft Act reads as follows:

'Twenty per cent of the total number of seats within the European Parliament shall be filled by means of list-based proportional representation relating to a single constituency comprising the territory of the European Union Member States with effect from the European elections to be held in 2009. The implementing provisions shall be adopted on a proposal from the European Parliament by the Council acting unanimously, following receipt of Parliament's assent before 1 January 2008.'

(¹) Doc. PE 224.331/rev. 2

It is in respect of this proposal that the Committee on Institutional Affairs has sought the opinion of the Legal Service.

II. The position in law

7. The first paragraph of Article 189 (currently Article 137) of the EC Treaty reads as follows:

'The European Parliament, which shall consist of representatives of the peoples of the States brought together in the Community(), shall exercise the powers conferred upon it by this Treaty.'

The above provision thus includes two elements: first, the statement that the Members of the European Parliament represent the peoples of the States brought together in the Community and, secondly, the reference to the powers conferred upon it.

8. Consequently, according to the legal literature Parliament does not represent a hypothetical European people, but has the task of representing the peoples of the Member States of the Community(). *'This clarification is useful, because it makes it possible to dismiss three demands which are sometimes made: the first entails the aim of organizing ... the possibility of pluri-national constituencies ...'()*.

9. Following the entry into force of the Treaty of Amsterdam, that statement will be confirmed not only by the new wording of Article 190(1)(), but above all by the insertion of a new second subparagraph into Article 190(2), which reads 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.'

10. It must therefore be concluded that there is a definite link between the framework represented by each Member State and the representation of its people in the European Parliament.

(¹) Our underlining

(¹⁻²) Haag/Bieber in: Groeben/Thiesing/Ehlermann, Kommentar zum EU-EG-Vertrag, 5th ed., Baden-Baden 1997, Article 137, first paragraph et seq.

(²) Article 137, second paragraph; see V. Constantinesco in: Constantinesco/Jaqué/Kovar/Simon, Treaty establishing the EEC, commentary, Paris 1992, Article 137, second paragraph

(³), but above all by the insertion of a new second subparagraph into Article 190(2), which reads as follows:) The paragraph reads as follows:

'1. The representatives in the European Parliament of the peoples of the States brought together in the Community shall be elected by direct universal suffrage.'

11. The statement made here is, moreover, borne out by what happened at the Maastricht intergovernmental conference. A proposal tabled by the German delegation, which sought to modify Article 137 of the EC Treaty by deleting the reference to the Member

States, stating instead that the European Parliament 'shall consist of representatives of the citizens of the Union', was not accepted().

12. This being the case, the link between the representative in the European Parliament and the State in which the right to vote is exercised, in relation to the rights of Union citizens to move and reside freely within the territory of the Union, has changed somewhat following the introduction of Article 8b(2) (future Article 19) of the Maastricht Treaty, pursuant to which:

'... every 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. ...'

13. It follows from this that it is therefore possible for persons who are not nationals of their State of residence to participate in the election of the representatives covered by the quota that Article 138 of the EC Treaty allocates to that State. Furthermore, the representation of the State concerned is no longer reserved exclusively for nationals of that State. This legal situation is also the practical expression of a new element enshrined in the Treaty by Article 138a, which refers, in the context of political parties at European level, to the formation of a European awareness and to the expression of the political will of the citizens of the Union, without mentioning the peoples of the Member States.
14. It should be noted, however, that the *'exception'* to the link with the framework of States stemming at present from Article 137 and, in future, from Articles 189 and 190 of the EC Treaty is limited: where the right to vote is concerned, a citizen has a choice only between the State of which he is a national and that in which he resides. In the present state of Community law, it is therefore not possible for a voter to exercise his right to vote in any Member State of his choice, if neither of the conditions linking him to that State (nationality or residence) is fulfilled.

In any event, it will also be noted that the possibility in question has been created by a provision in primary law, namely Article 8b(2) of the EC Treaty.

15. While the Treaty itself may undoubtedly create *'exceptions'* applicable to its own provisions, the same possibility does not exist for a lower-ranking act.
16. As the existence of Articles 19 and 191 (currently Articles 8b and 138a) of the EC Treaty shows, representation of the peoples of the Community which crosses State frontiers is possible, and is not alien to the principles of the Treaty. To achieve this, however, a modification of Articles 189 and 190 of the EC Treaty (Treaty of Amsterdam version) will be needed, using the procedure provided for in Article N of the Treaty on European Union (Article 48 of the new version of the Treaty on European Union).

(¹) Cf. Cloos/Reinisch/Vignes/Weyland, The Maastricht Treaty, Brussels 1993, p. 367

III. Conclusions

1. Given that the rapporteur of the Committee on Institutional Affairs proposes to choose the second option in the new Article 138 (Article 190 of the consolidated version of the Treaty), which will only become operational once the Treaty of Amsterdam has entered into force, this legal opinion must be based on the future version of the Treaty.
2. The wording of the first paragraph of Article 189 (currently Article 137) of the EC Treaty and its legislative history make it clear that Members of the European Parliament represent the peoples of the States brought together in the Community.
3. The link between the representative in the European Parliament and the State in which the right to vote is exercised, in relation to the rights of Union citizens to move and reside freely within the territory of the Union, has changed somewhat following the introduction of Articles 8b(2) and 138a (future Articles 19 and 191) of the Maastricht Treaty. The exception to the link with the framework of States is limited, however; moreover, it has been created by a provision of primary law. While the Treaty itself may create exceptions applicable to its own provisions, the same possibility does not exist for a lower-ranking act, as will be the case with the act to be proposed by Parliament pursuant to the future Article 190 of the EC Treaty.
4. As the existence of Articles 19 and 191 (currently Articles 8b and 138a) of the EC Treaty shows, representation of the peoples of the Community which crosses State frontiers is possible, and is not alien to the principles of the Treaty. To achieve this, however, a modification of Articles 189 and 190 of the EC Treaty (Treaty of Amsterdam version) will be needed, using the procedure provided for in Article N of the Treaty on European Union (Article 48 of the new version of the Treaty on European Union).

Ezio PERILLO

Hans KRÜCK

Seen: Gregorio GARZÓN CLARIANA
The Jurisconsult

20 May 1998

OPINION
(Rule 147)

for the Committee on Institutional Affairs

on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament (report by Mr Anastassopoulos)

Committee on Legal Affairs and Citizens' Rights

Draftsman: Mrs Evelyne Gebhardt

PROCEDURE

At its meeting of 4 November 1997 the Committee on Legal Affairs and Citizens' Rights appointed Mrs Evelyne Gebhardt draftsman.

It considered the draft opinion at its meetings of 3 February 1998, 26 February 1998, 28 April 1998 and 19 May 1998.

At the last meeting it adopted the following conclusions by 11 votes to 1, with 4 abstentions.

The following were present for the vote: De Clercq, chairman; Gebhardt, draftsman; Añoveros Trias de Bes (for Ferri), Berger, Buffetaut, C. Casini, Cassidy, Cot, Fabra Vallés (for Palacio, pursuant to Rule 138(2) of the Rules of Procedure), Falconer (for Barzanti), Garriga Polledo (for Mosiek-Urbahn, pursuant to Rule 138(2) of the Rules of Procedure), Newman, Oddy, Thors, Tsatsos (for Medina Ortega), Ullmann and Zimmermann (for Verde i Aldea),

I. BASIS IN THE TREATIES

Provisions on electoral law appeared in the 1957 Convention on certain institutions common to the European Communities, which amended Article 21(3) of the ECSC Treaty to read as follows:

'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 respective constitutions requirements'.

The provisions currently applicable to elections to the European Parliament are those of the EC Treaty in the version of 7 February 1992 (Maastricht). They are to be found in Articles 8b(2) and 138(3) require, over and above the provisions of the original version, the assent of a majority of the Members of the European Parliament for the Council's legal act.

A differing wording in the Treaty of Amsterdam (Art. 190(4)), is not yet in force, since the ratification process has not yet been completed in all Member States.

Also relevant are Art. 138a on political parties at European level, and Art. F (principles of democracy; human rights and fundamental freedoms) of the Treaty on European Union.

Except where otherwise provided for, the Act of 20 September 1976 concerning the election of representatives of the Assembly by direct universal suffrage (OJ L 278/1976) still applies.

II. AMENDMENTS NECESSARY

A. General

The principles of democracy demand that there should be general electoral principles recognized in all Member States. Under these principles the Members of the European Parliament must be elected by direct universal suffrage through an equal, free and secret ballot.

B. The right to vote

The right to vote should be readily comprehensible and should thus be dependent on only a small number of criteria linked to the introduction of the citizenship of the Union in Article 8 of the Treaty of Maastricht and the electoral act 93/109/EC.

1. All citizens of the Union who have reached the age of 18 are entitled to vote (this already applies in all Member States).
2. The right to vote is dependent on entry in the electoral register of the place of residence in the Member State concerned. Derogations which prevent or restrict freedom of movement, and the freedom of citizens to choose their place of residence within the European Union, should be avoided.

Entry on the register should be a straightforward and inexpensive procedure and should follow automatically on reaching the appropriate age, or, if a citizen changes place of residence, should take place within a period of time which also applies to the citizens of the Member State in question.

3. The right to vote may only be exercised when it has not been withdrawn by a final and binding decision in the state of origin or the state of residence, either as the result of a court judgment or for some other reason.
4. For citizens of the Union living outside the European Union, it makes sense for the right to vote to be governed by the laws of the state whose citizenship they possess.

C. Right to stand for election

1. The right to stand for election should in principle be based on the same criteria as the right to vote. This applies in particular to the minimum age, which currently ranges from 18 to 25 in the Member States. There is no clear reason why persons who are of full age and legal capacity should be denied the right to stand for election.

2. Candidates may only be proposed by parties, who have a special role (Art. 138a of the EC Treaty). The parties must draw up lists of candidates, which take account of social groups and regional features. Individual candidacies should not be ruled out, and should be permitted if supported by a certain number of signatures. This number of signatures must be the same for all Member States and must be relatively low, in order to give individual candidates a broadly equal opportunity. Requiring a deposit would place independent candidates at a disadvantage compared with parties and would unduly impede less well-off candidates.
3. The duties of the European Parliament as a transnational parliament are of a special kind. They are not compatible with the interest of a national or regional parliament in a Member State. For further incompatibilities see the Act of 20 September 1976.

D. Electoral procedure

Fourteen Member States already use a system of proportional representation. Even the UK has plans to move away from the first-past-the-post system.

Hence, a decision has been taken in favour of proportional representation in the European Union. However, at a time when a growing number of citizens aspire to greater political participation, it needs to be seen whether and to what extent this aspiration can be realized in the election of the members of the European Parliament.

The option of casting preferential votes, which is already a possibility under some electoral laws, seems sensible. It counteracts the tendency of Parliament to become faceless. However, it should not be forgotten that preferential votes tend to reduce women's chances of being elected and to favour 'the great and good'.

Dividing the electoral territory into constituencies of a manageable size would also help break down anonymity and encourage personal identification of citizens with 'their' Members. Constituencies would also simplify the requisite balanced regional representation of citizens in the European Parliament.

In addition to balanced regional representation, there is a need for a balanced representation of the sexes. Proportional representation permits the adoption of an appropriate uniform set of rules.

E. Allocation of seats

The allocation of seats to parties and to independent candidates should be based on the number of valid votes obtained. A sensible way of allocating seats is through a system of highest averages (e.g. the d'Hondt system). To avoid fragmentation of Parliament which would hamper its work, the uniform election procedure should provide that only lists gaining a minimum percentage of valid votes can be considered for the allocation of seats. This percentage should not be higher than 5%.

F. Electoral term; date of election

The five-year electoral period has stood the test of time and should be kept. To take account of the differing traditions in the Member States the system should permit the election to be held on a weekday or a Sunday. It must therefore take place on several consecutive days.

G. Election expenses

Under a uniform system election expenses should be reimbursed in accordance with the same criteria and to the same amount. The basis for calculating the amount reimbursed should be the number of votes obtained.

Member States set a ceiling on individual election expenses in order to prevent the outcome of elections from being influenced by capital resources.

H. Prospects for the future

The uniform election procedure for the Members of the European Parliament should be marked by a high degree of flexibility and should be responsive to future developments: for example, the enlargement of the European Union, the presentation of European lists by European political parties or the possibility of the right to vote being granted to all persons legally resident in the European Union.

III. CONCLUSIONS

The Committee on Legal Affairs and Citizens' Rights proposes an act concerning the election of Members to the European Parliament embodying the following principles:

1. The Members of the European Parliament shall be elected by direct universal suffrage through an equal, free and secret ballot.
2. The electoral term shall be five years. The polling dates shall extend over not more than five consecutive days, including a Sunday.
3. The right to vote and the right to stand for election shall be accorded to EU citizens who have reached their 18th birthday, who are entered on the electoral register and who have not had their right to vote withdrawn in accordance with law. Registration shall be automatic. The right to stand for election should be based on the right to vote. Therefore no monetary restriction should be placed on the individual's right to stand. Individual candidacies should be permitted if supported by a certain number of signatures, which should be relatively low, in order to give individual candidates a broadly equal opportunity.
4. Membership of the European Parliament shall be incompatible with membership of a national or regional parliament and with the office of leader of a regional executive or of mayor of a large town with a population of more than 50 000. Members of a government, the European Commission and the governing bodies of the European Central Bank, and officials or agents thereof, and the persons referred to in Article 6 of the Act of 20 September 1976 may not simultaneously hold a seat in the European Parliament.
5. In the allocation of seats only lists which have obtained at least 5% of the valid votes cast shall be taken into account. Under the laws of the Member States, the casting of preferential votes may be permitted. Individual candidacies must be permitted in all Member States according to the same rules.

6. The electoral area shall be divided into territorial constituencies of a manageable size. Member States with less than 20 million inhabitants may refrain from making the subdivision into constituencies.
7. The total number of seats in the European Parliament shall be filled by means of a proportional, list-based voting system. No later than the 2009 European elections, the parties shall be permitted to set up transnational lists of candidates. The Council, acting on a proposal from the European Parliament, shall enact the necessary implementing provisions.
8. Each of the Member States may establish a ceiling on the expenditure which candidates may devote to the electoral campaign on the basis of similar principles and a transparent statement must be made regarding the expenditure incurred.
9. Except where otherwise provided for, the Act of 20 September 1976 concerning the election of representatives of the European Parliament by direct universal suffrage (OJ L 278/1976) shall continue to apply.