



# BULLETIN

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## Reform of the Electoral Procedure to the European Parliament

by Agata Gostyńska

*The European Union has not yet created a uniform electoral procedure to the European Parliament. Although the basic catalogue of electoral principles was defined in the Act concerning the election of the members of the EP by direct universal suffrage of 20 September 1976 (the Act), substantial discrepancies persist in the way of electing members of the EP. A draft report presented by Andrew Duff at the Constitutional Affairs Committee's meeting on 12 July 2010 confirms that a further harmonisation of electoral procedures is necessary to enforce the principle of EU citizens' equality through equal terms of allocation of seats to the EP and to boost interest in the EU's public affairs.*

**Background.** Attempts to create a uniform electoral procedure were launched in the early 1960s and were accompanied by the debate on the organisation of the first direct elections to the EP. The initiative of the European Parliament (earlier the Parliamentary Assembly) to draw up election procedure proposals was introduced already in the founding treaties. The resistance of France, Great Britain and Denmark, which saw direct elections as an attempt to undermine the international nature of the Communities, delayed work on the electoral procedure to the EP. Although the Act signed in 1976 set up the principle of direct elections, it did not impose binding commitments on the member states (MS) regarding the election of EP members. In 2002 the Act was amended by a decision of the EU Council to introduce the principle of proportional representation, an optional threshold for the allocation of seats (max. 5% of the votes cast), a preferential voting system as well as a principle of incompatibility of the EP member's office with that of a member of national parliament (a transition period was set for Great Britain and Ireland). Although the amendments bridged the distance between the electoral cultures of the MS, individual election procedures were preserved.

**Proposed Amendments.** The Duff Report covers five main proposals for amendments..

**I.** Mandatory territorial constituencies on a regional basis. Currently, both big and small MS are among those setting one constituency at the national level for EP elections. The mandatory establishment of territorial constituencies in MS with a population of more than 20 mln would safeguard | a better representation in the EP of the interests of the citizens of individual regions, at the same time strengthening the link between the voter and his constituency..

**II.** The Report proposes establishing a preferential semi-open list system alongside a single transferable vote. The list system enables voters to choose a specific candidate within a given list, while currently many MS (e.g. Germany, France, Spain) apply a closed list system, which requires voting for the list, not for individual candidates. The introduction of semi-open list systems would allow voters to express their actual preferences with respect to individual candidates.

**III.** The introduction of an EU-wide constituency designed to promote European political parties. A total of 25 members of European Parliament (MEPs) would be elected from the EU-wide list drafted by European political parties. The list should embrace candidates drawn from at least one-third of the MS and should be gender-balanced. In effect, EU citizens would be able to cast two votes: one for the list or a candidate from the list (depending on the electoral system in the MS) and another for their preferred candidate from the EU-wide list. Candidates could stand on both the EU-wide list and on the list in the particular MS. Additionally, candidates residing officially in several MS or of dual citizenship could stand on lists in several MS..

**IV.** Currently, the minimum voting age is usually 18 years, except for Austria, where it is enough to be 16 years old to be eligible to vote in the EP elections. To stand as a candidate in the EP elections, the minimum age is 18 years (in 12 MS), 21 years (in 10 MS, including Poland), 23 years (in France and Romania), or 25 years (in Cyprus, Italy and Greece). The draft report proposes to lower the voting age minimum to 16 and candidates' age to 18 in all MS.

**V.** Proposal to establish a common election date and timing for all MS. The timing of the election is to be brought forward from June to May, with polling days limited only to Saturdays and Sunday. June is a summer holiday period in a number of MS, resulting in an increased absence during elections to the EP.

**Evaluation of Proposals.** The draft report reopens the discussion on the significance of the elections to the EP and on whether or not a further harmonisation of electoral procedures will result in an increased citizens' trust in the institution. The final EP composition should reflect the electoral interests of EU citizens rather than represent the concerns of the member states. This is in line with Article 14.2 of the Treaty on European Union, which determines that the EP shall be composed of representatives of EU citizens, not MS. EU citizens' electoral decisions would be better expressed with territorial constituencies on a regional basis in the bigger MS, and the subdivision of the electoral area favours an equal representation of the regions. At the same time, the treaties distribute the available number of mandates between particular MS. Although MEPs are not bound by instructions from their MS, electoral mechanisms allow MS to preserve some control over the final EP composition (by establishing minimum thresholds for the allocation of the seats, different counting methods of the votes cast, list systems or territorial constituencies). Consequently, the countries with regional autonomy movements are more likely to defend the old electoral system with a single constituency at the national level, while countries with a traditionally strong party discipline incorporated into electoral culture tend to support a closed list system.

The establishment of a common election date—on a Saturday and Sunday in May—as well as a common minimum age to be eligible to vote or stand as a candidate could boost public interest in EU activities and hopefully result in a higher turnout in the EP elections. But the introduction of a minimum eligibility age of 16 years would require amendments to national electoral acts in as many as 26 MS. Notably, Western democracies are attached to their electoral traditions, so proposals of radical amendments altering their current national electoral systems may be approached with reserve. Eligibility to cast two votes and to stand as a candidate in more than one MS would also require amending Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the EU residing in a member state of which they are not nationals. The Directive rules out the possibility of casting two votes in the same EP elections or standing as a candidate in more than one MS.

From the Polish perspective, the establishment of an additional EU-wide constituency as well as new franchise and candidature age limits would require amendments to Polish electoral procedures. The law on elections to the European Parliament of 23 January 2004 is grounded in the Polish Constitution's political rights and freedoms and entitles citizens who are at least 18 years old to exercise their right to elect MEPs and those who are at least 21 years old to stand as a candidate. Additionally, the law rules out voting more than once in the same EP elections or standing as a candidate in more than one MS.

The proposals presented should not violate the principle of subsidiarity. The national parliaments determine whether or not the pursuit of a specific EU goal requires steps at the European Union level. The first comments from representatives of national parliaments are expected later this month, including their views on whether or not a further harmonisation of electoral procedures conforms with this principle.