

The election procedure

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Articles 138 EEC, 108 Euratom and 21 ECSC provided that the election of the Members of the Assembly by direct universal suffrage should be conducted in accordance with a uniform electoral procedure in all the Member States. The Act of 20 September 1976, however, did not subsequently lay down a uniform electoral procedure. Only a few principles were established, including the allocation of seats, the election dates, the principles underlying the voting system or the nature of the mandate. Article 7 of the Act called for the Assembly to draw up a proposal for a uniform electoral procedure to be submitted to the Council. Pending that, the electoral procedure in each Member State was governed by national provisions. National law quite specifically covered the voting system, the constituencies, the right to vote, eligibility to stand for election and incompatibilities in addition to those stipulated in the 1976 Act.

The first European elections, in 1979, were held in accordance with national electoral procedures. The question of adopting an actual Community procedure was referred to the Members of the European Parliament for debate, subject to their defining it so that it could be put in place for the elections in 1984. A preliminary resolution was adopted by the European Parliament on 10 March 1982¹ (the Seitlinger report). The proposal was that a proportional voting system with seats allocated by the d'Hondt method be adopted, and that in each Member State multi-member constituencies be defined, each returning between three and 15 Members. The Council did not take up the proposal.

In 1985, the Bocklet report adopted by Parliament's Political Affairs Committee recommended determining common objectives rather than a completely uniform procedure. Opposition from the Legal Affairs Committee, and between the political groups, on this question led to the report's not being tabled for a vote in the full House; instead, a working party with Members from different groups took upon itself to bring positions closer together. It was not possible to submit any plan to the Council for the 1989 elections. After the 1989 elections, further consideration was given to the question under the responsibility of Karel De Gucht, rapporteur in the Institutional Affairs Committee. This led to the adoption of a new resolution in March 1993. It recommended that the uniform election procedure should be based on a proportional representation system taking the votes cast in each Member State as a whole into account. Preferential voting was allowed, and a minimum threshold of between 3 % and 5 % of votes cast could be set. There was a special arrangement for the United Kingdom, where voting by proportional representation was unfamiliar.² The report was adopted too late in Parliament's term for it to be able to be adopted by the Council and put into effect for the 1994 elections. After 1994, however, the matter was referred to the Council, which undertook to consider it.

There were many calls for its adoption, including one from the President of the French Republic, Jacques Chirac, in 1996. The uniform electoral procedure was added to the list of topics for discussion at the 1996 intergovernmental conference. In October 1996 the German Government tabled a proposal which in the main followed the principles laid down in Parliament's resolution of March 1993. To set aside opposition from the Council to taking uniformity too far — Council gave its view on Parliament's proposal by unanimous vote — the Treaty of Amsterdam recommended that election by universal suffrage could take place in accordance with a uniform electoral procedure 'or in accordance with principles common to all Member States'. The adoption of an electoral procedure at European level was thereby made simpler, even if it were not uniform.

On 15 July 1998, Parliament adopted a new draft which recommended proportional voting, the introduction of a system of territorial constituencies, optional in the case of Member States with fewer than 20 million inhabitants, and a minimum threshold lower than or equal to 5 % of the votes cast for

¹ European Parliament Resolution of 10 March 1982 on a draft uniform electoral procedure for the election of Members of the European Parliament, OJ C 87, 5 April 1982, p. 64.

² European Parliament Resolution of 10 March 1993 on a draft uniform electoral procedure for the election of Members of the European Parliament, A3-0381/92, OJ C 115, 26 April 1993, p. 121.

the allocation of seats.³ On this basis the Council adopted its Decision (2002/772/EC, Euratom) of 25 June 2002 and 23 September 2002,⁴ introducing into the 1976 Act the principles of a uniform electoral procedure. The decision left it open to the Member States to apply national provisions with respect to aspects not regulated by the Act, without, however, encroaching on the proportional character of the voting system. The Council recommended that the provisions of Decision 2002/772/EC, Euratom be adopted by the Member States in accordance with their respective constitutional rules. The decision took effect on 1 April 2004. Negotiations on the decision in the Council were made easier by the fact that the United Kingdom had amended its electoral law in 1998 and had brought in proportional voting for the European elections in 1999.

The common principles laid down by Decision 2002/772/EC, Euratom can be summarised as follows:

- voting on the basis of proportional representation, using the list system or the single transferable vote; Member States may authorise voting based on a preferential list system in accordance with the procedure they adopt;
- division of the territory for the holding of elections for which the Member States are responsible. Member States can opt for one or more constituencies or subdivide their electoral areas in a different manner, without generally affecting the proportional nature of the voting system;
- option of setting a minimum threshold for the allocation of seats not exceeding 5 % of votes cast .

Since 2004 all the Member States have applied a system of proportional representation, even if there are differences in terms of how many constituencies there are, whether or not there is a minimum threshold for the allocation of seats or indeed whether there can be preferential voting.

³ European Parliament Resolution of 15 July 1998 on a draft electoral procedure incorporating common principles for the election of Members to the European Parliament, OJ C 292, 21 September 1998, p. 66.

⁴ OJ L 283, 21 October 2002, p. 1.