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From:	Presidency
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Subject:	Proposal for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage (the 'Electoral Act')

Further to the meetings of the Working Party on General Affairs held on 10 and 23 November 2017 and with a view to finalising discussions at the meeting on 1 December 2017, delegations will find attached a second revised version of the overview of the discussions held in the Council since December 2015 on the above-mentioned EP's proposal. Without prejudice to the principle that 'nothing is agreed until everything is agreed', the state of play on individual provisions (as of November 2017) is also indicated.

Annex I includes a general overview of the discussions in the Council which the Presidency intends to present to COREPER and subsequently to the European Parliament. Annex II presents a detailed description of the discussions and forms the basis for the general overview given in Annex I. Changes, compared to the first revision, in Annexes I and II, are highlighted in **bold underlined**. The latest Presidency drafting suggestions for each article are set out in Annex III.

General overview of the discussions held in the Council on the EP's proposal for amending the Electoral Act (as of November 2017)

1. During discussions in the Council since December 2015, delegations have voiced support for the general aim of the Parliament's proposal to enhance public interest and voter turnout in the EP elections.
2. Throughout the discussions a number of delegations stressed the importance of respecting the constitutional and electoral traditions of the Member States, as well as the principles of subsidiarity and proportionality, when discussing European electoral reform. It was pointed out that Article 8 of the current Electoral Act leaves any matters pertaining to the electoral procedure which are not regulated in this act for Member States to decide. Delegations therefore generally took the view that harmonisation should only be pursued in case of strict necessity and after rigorous examination of the added value it would bring. They also considered that, in some cases, the Parliament's proposals did not meet these criteria to a sufficient extent.
3. Regarding some specific elements of the proposal, delegations have stressed the importance of avoiding 'double voting' by EU citizens in several Member States and agreed on the desirability of increased transparency and awareness regarding the European character of the EP elections. In this context, they discussed among other issues how Member States could help to create 'common momentum' at the end of the EP elections and supported the idea of better coordinating the communication of the results of elections, while avoiding a formalised and possibly bureaucratic approach.
4. As regards the affiliation of parties and candidates to European political parties, after detailed discussions delegations took the view that it was above all for the candidates and parties themselves to provide any such information, without interference from the public authorities, which should uphold their freedom of association and freedom of expression, as well as media freedom, in particular in the sensitive context of the electoral debate.
5. In a similar vein, there has been general support among the delegations for the aims pursued by the Parliament in terms of increased participation of women in political decision-making, and the selection of candidates via transparent and democratic procedures. However, delegations have also highlighted the need to protect the autonomy of political parties and the freedom to stand for elections. Moreover, some doubts were expressed as to the possibility of regulating such matters under Article 223(1) TFEU, which focuses on the electoral procedure. In this context a number of delegations felt that, for addressing these issues, non-binding measures should be preferred.
6. **Regarding the vote of EU citizens in third countries, delegations have in general supported the idea of taking measures to increase voter participation in EP elections. However, several delegations have raised political concerns and practical difficulties in relation to the EP's proposal, which would impose a general obligation on Member States to allow their citizens in third countries to vote in the EP elections. One delegation, on the other hand, is attaching particular importance to this provision. There is no agreement on this proposal as of November 2017.**

7. The possibility of establishing a compulsory minimum threshold at the EP elections has been discussed at length. This idea gathered the support of several delegations, which felt that the EP could benefit from less fragmentation, as this would enable it to perform its legislative and political functions better. Other delegations preferred to protect citizens' ability to vote even for the smallest parties and noted that the EP did not need a stable majority to support a coalition government. Some furthermore stressed that their constitutional traditions did not support the establishment of thresholds. **One of the delegations that would be directly affected by the obligation to introduce a threshold and that had voiced difficulties regarding the implementation of this provision has recently suggested, that it might, under certain conditions, be able to support it.**
8. As regards the Parliament's proposals to set a deadline for the nomination of lead candidates for the position of the President of the Commission and provide a legal basis for the creation of a joint constituency in which lists are headed by such lead candidates, most delegations took the view that the formalisation of the so-called Spitzenkandidaten process would not comply with the institutional balance resulting from the Treaties and might end up encroaching on the institutional prerogatives of the European Council as defined in Article 17(7) TEU. **Recently, the idea of a joint constituency resurfaced with one delegation announcing proposals on transitional lists.** While a few delegations support **the idea of creating a joint constituency,** several others have **voiced reservations or strong opposition. There is no agreement on this idea as of November 2017.**
9. In the light of these considerations and the detailed discussions in the Council, and without prejudice to the principle that 'nothing is agreed until everything is agreed', the Presidency takes the view that the articles with respect to which agreement between delegations currently seems most likely to be achieved are the following:
 - Article 1(1) – addition of treaty language on MEPs as representatives of Union citizens,
 - Article 3a – a deadline of at least three weeks for the submission of candidacies,
 - Article 3e(1) – reference to the possibility for Member States to allow the display of the name or logo of European political parties on ballot papers,
 - Article 3e(2) – a new provision stipulating that the rules concerning the sending of electoral materials, by public authorities, to voters in EP elections shall be equivalent to those applied for national elections, without prejudice to the means by which such materials are sent and any communications concerning the organisation of the elections,
 - Article 4a – reference to the possibility for Member States to provide, under certain conditions, for advance voting, postal voting, and electronic and internet voting in EP elections,
 - Article 9, new second paragraph – obligation for Member States to ensure effective, proportionate and dissuasive penalties in case of double voting,
 - Article 9b – obligation for Member States to designate a contact authority for exchanging data on voters and candidates and a deadline for the start of such an exchange of data.
10. The Presidency also notes that in the event of amendments to the Electoral Act, it would be advisable to update some of its provisions to bring them into line with the Lisbon treaty. This would concern, above all, Articles 11 and 14 of the Electoral Act, which govern the fixing of the electoral period and 'measures to implement' the Electoral Act. It believes that agreement among the delegations could also be achieved on those provisions.
11. The Presidency consulted with the Member States regarding the deadlines for having the changes to the current Electoral Act approved in accordance with their constitutional requirements and for adopting the necessary domestic measures in time for the 2019 EP

elections. In this context, some Member States referred to the opinion of the Venice Commission on electoral matters which recommends avoiding any changes to the voting systems just before (within one year of) the elections. While several delegations noted that the exact deadline would depend on the nature of the agreed changes, it appears, based on the information received, that a number of delegations would need any changes to the Electoral Act to be adopted by early 2018 at the latest in order to be able to apply them for the 2019 EP elections.

Overview of the detailed discussions held in the Council on the EP's proposal for amending the Electoral Act (as of November 2017)

1) MEPs as representatives of Union citizens (Articles 1(1) and 6)

In its proposal the EP suggested stipulating in Article 1(1) that MEPs shall be elected '*as representatives of the citizens of the Union*'. It also proposed adding in Article 6, which includes provisions on voting by MEPs, that '*They shall represent all Union citizens.*'

During the discussions in the Working Party on General Affairs, delegations generally considered the addition to Article 1(1) as unproblematic, since it follows the wording of Article 14(2) TEU, as modified by the Lisbon Treaty ('*The European Parliament shall be composed of representatives of the Union's citizens.*'). As regards Article 6, however, some delegations felt that the reference to MEPs as representatives of '*all Union citizens*' went beyond the original text of Article 14(2) TEU. They stressed that there was a difference between MEPs representing their electorate and their representing all Union citizens regardless of whether they participated in the electoral process, calling for the treaty language to be strictly respected. In order to accommodate the concerns of such delegations, the Presidency proposed that this provision be deleted while the addition to Article 1(1) be maintained.

These drafting suggestions have been acceptable to the delegations.

2) Joint constituency and *Spitzenkandidaten* (Articles 2a and 3f)

With the proposed Articles 2a and 3f, the EP suggested providing a legal basis for the creation of a joint constituency and institutionalising the so-called *Spitzenkandidaten* process, whereby the main European political parties put forward their 'lead candidates' for the post of President of the Commission. For Article 2a, the EP proposed: '*The Council decides by unanimity on a joint constituency in which lists are headed by each political family's candidate for the post of President of the Commission.*' Article 3f further provided for a deadline by which European political parties have to nominate their candidates for the position of President of the Commission.

In its opinion of 15 March 2016, the Council Legal Service noted that '*draft Article 2a does not provide any element substantiating the features of the proposed joint constituency (number of seats, relationship with national constituencies, composition of the list of candidates, etc.)*'. More crucially, it considered both Article 2a and 3f '*highly problematic in terms of compliance with the institutional balance resulting from the Treaties*'. In particular, the Council Legal Service considered that '*the institutionalisation of a 'Spitzenkandidaten' practice based on the so-called precedent of 2014 might end up encroaching on the institutional prerogatives of the European Council as defined in the Treaties*'.

Based on discussions in the Working Party on General Affairs and in the light of the opinion of the Council Legal Service, the Presidency concluded in the non-paper presented to the COREPER meeting on 30 November 2016 that these provisions appear to be unacceptable to

all delegations but one as a matter of principle and/or on legal grounds, constituting a 'red line' for the Council. The Working Party on General Affairs has not discussed these provisions in detail after the COREPER meeting on 30 November 2016. **Recently, the idea of a joint constituency resurfaced with one delegation announcing proposals on transitional lists.** While a few delegations support **the idea of creating a joint constituency,** several others **have voiced reservations or strong opposition. There is no agreement on this idea as of November 2017.**

There is no agreement on these provisions as of November 2017.

3) Minimum threshold (Article 3)

This issue was discussed in COREPER on 30 November 2016 as one of the five outstanding issues identified by the Presidency.

The EP proposed revising Article 3 so as to impose an obligation on Member States to set a threshold of 3 to 5 % of the votes cast at constituency level in EP elections. Such an obligation would apply to constituencies in which the list system is used and which comprise more than 26 seats.

Due to concerns raised in the Working Party on General Affairs, the Presidency suggested modifying the EP's text so that the obligation to set a threshold would apply only to constituencies (including single-constituency Member States) which comprise more than 32 seats. It explained that this was a 'natural threshold', which could justly replace the one suggested by the EP¹. In addition, it proposed that if a Member State came to be affected by this provision due to a redistribution of seats in the EP, it would not have to apply it to the upcoming EP elections.

The majority of the delegations could accept such an approach. However, during the COREPER discussion on 30 November 2016 some delegations deemed the proposed text problematic. A few of them expressed principled opposition to the idea of regulating the matter at EU level. One delegation referred to difficulties achieving the majorities needed to incorporate the proposed minimum threshold in its legal system. Another delegation did not see the Presidency wording as 'future-proof' and remained concerned about the possibility of becoming affected by the provision after a redistribution of seats in the EP. Finally, one delegation preferred to set the threshold at national rather than constituency level.

Some of these difficulties were confirmed on 31 March 2017 when this article was last discussed at working party level. **One of the delegations that would be directly affected by the obligation to introduce a threshold and that had voiced difficulties regarding the implementation of this provision has recently suggested, that it might, under certain conditions, be able to support it.**

There is no agreement on this provision as of November 2017.

¹ In single-constituency Member States or constituencies with more than 32 seats in the EP, each political party or individual candidate that gets more than 3 % of the total amount of votes is always guaranteed to get at least one seat in the EP.

4) Deadline for the lists of candidates (Article 3a)

This provision was also brought to the attention of COREPER in November 2016 as one of the main outstanding issues.

In a new Article 3a, the EP proposed setting a harmonised deadline of at least 12 weeks before the start of the electoral period for the establishment of lists of candidates for the elections. This would create a level playing-field for electoral campaigns across the EU and allow for a long period of campaign.

In the light of the comments presented in the Working Party on General Affairs, the Presidency suggested referring to the '*submission of candidacies*', which would be easier to establish and would also cover individual candidates. It also proposed reducing the deadline to four weeks to accommodate the concerns of a number of delegations, and suggested counting the four weeks from the date fixed by each Member State for the EP elections. In addition, it limited the scope of application of the provision to Member States in which national provisions set a formal deadline, in order to take account of the situation in one Member State where, due to constitutional traditions, the formal deadline is very close to the elections, with most political parties nevertheless respecting an informal deadline of about three months.

A few delegations remained opposed to the compromise wording and asked for a shorter common deadline, if any. One of these delegations also took the view that the proposed drafting suggestion would impose a disproportionate obligation on those Member States which have a deadline compared to those which do not. In the latest Presidency drafting suggestions the deadline has therefore been further reduced to three weeks, which has been acceptable to the delegations at working party level.

5) Deadline for the electoral roll (Article 3b)

In a new Article 3b, the EP also proposed setting a harmonised deadline of eight weeks before the first election day for the '*establishment and finalisation of the electoral roll*'. In the resolution accompanying its proposal, it argued that the differences in the deadlines for finalising the electoral roll '*may render the exchange of information between Member States on voters difficult, if not impossible*'.

During the discussions in the Working Party on General Affairs, several delegations considered the proposed deadline to be too long. It was pointed out that an early finalisation of the electoral roll would negatively impact turnout and that later corrections would in any case be needed. Several delegations also, more generally, felt that managing their electoral register was a matter of national competence.

Against this background, the Presidency decided to discuss Article 3b together with Article 9b, which includes provisions on exchange of information between Member States with a view to avoiding 'double voting'. After having heard from the Commission, which is responsible for the implementation of Article 13 of Council Directive 93/109/EC on the relevant exchange of information, it concluded that harmonisation of the deadline for the

electoral roll would not be a proportionate measure for addressing the issue of 'double voting', given that the exchange of information would in any case have to take place gradually. It therefore proposed deleting Article 3b and focusing efforts instead on the exchange of information under the proposed Article 9b (see below). This approach was supported by the delegations.

6) Selection of candidates according to a democratic procedure and gender equality (Articles 3c and 3d)

The EP proposed in a new Article 3c that political parties participating in the elections to the European Parliament '*shall observe democratic procedures and transparency in selecting their candidates*'. It also suggested a new Article 3d which provides that '*The list of candidates for election to the European Parliament shall ensure gender equality.*'

During the discussions in the Working Party on General Affairs, delegations supported the selection of candidates via transparent and democratic principles. They also agreed with the EP on the importance of an increased presence of women in political decision-making. Nevertheless, different views were expressed on the provisions suggested by the EP. Certain ambiguities in the EP's text were highlighted, and some doubts were raised as to whether the EP's proposals, in particular on Article 3c, fall within the scope of Article 223 TFEU, which covers provisions 'necessary' for the EP elections (the electoral procedure). Some delegations rejected the provisions as a matter of principle, on the grounds that they would unduly interfere with the internal life and autonomy of political parties, restricting the freedom of association and freedom to stand for elections.

Against this background, the Presidency suggested moving these provisions to recitals, in order to show the Council's general support for the EP's aspirations whilst avoiding any binding provisions. The latest Presidency drafting suggestions, however, were not acceptable for some delegations due to concerns over the protection of fundamental freedoms. In addition, one delegation took the view that the issue of gender equality should be covered in an article rather than a recital.

There is no agreement on these provisions as of November 2017.

7) Visibility of European political parties and posting of electoral materials (Article 3e)

In a new Article 3e, the EP proposed a number of measures aimed at informing citizens about the affiliation of national parties to European political parties. It suggested establishing that the ballot papers used in elections to the EP must give '*equal visibility*' to the names and logos of national parties and to those of the European political parties. Member States would have to promote the provision of the different affiliations in television and radio campaign broadcasts and on electoral campaign materials. National political parties would also have to refer to the manifesto of the European political party to which they are affiliated in their electoral campaign materials. In addition, the EP proposed stipulating in Article 3e(3) that: '*The rules concerning the posting of electoral materials to voters in elections to the European Parliament shall be the same as those applied for national, regional and local elections in the Member State concerned.*'

The discussions in the Working Party on General Affairs focused on the issue of ballot papers, which the Presidency also highlighted as one of the five outstanding issues with a view to the COREPER meeting on 30 November 2016. In the light of the comments from delegations, it suggested requiring the display of the name or logo of a European political party on the ballot papers only in case (i) the national political party requires such display and (ii) the Member State concerned already allows the display of the name or logo of a national political party in its national legislation. Despite these suggestions, a few delegations maintained their reservations. Two of them took the view that the issue should be regulated in national law and should not be for national parties to decide. The latest Presidency drafting suggestions therefore provide that Member States '*may allow*' for the display of the name or logo of a European political party on ballot papers where such a display is also allowed for a national political party under national law, which has been acceptable to all the delegations.

As to the provision of information on affiliations in the media and on electoral materials, delegations took the view that any binding provisions in this regard would be difficult to reconcile with the freedom of expression and freedom of association, as well as media freedom, in particular in the sensitive context of the electoral debate. The Presidency explored the possibility of drafting a recital with some general language on the provision of information on affiliations. However, a few delegations took a principled stand that Member States should not interfere in this issue, which was a matter for the candidates and parties only.

As regards '*the posting of electoral materials*', delegations raised a number of concerns over the EP's text. They took the view that it should be clarified, concern the sending of materials by public authorities and only refer to national elections, given that the rules for national, regional and local elections vary in some Member States. A few delegations also asked for specific language which would allow them to keep their different arrangements regarding the funding of EP and national elections, the provision of additional information to 'mobile voters' at EP elections and the means by which the electoral materials are sent. The latest Presidency drafting suggestions, which accommodate these concerns, are acceptable to all the delegations.

8) Voting methods (Articles 4a and 4b)

The EP proposed including in the Electoral Act new Articles 4a and 4b which would allow Member States to introduce electronic and internet voting under certain conditions, and to provide for postal voting at elections to the European Parliament. Member States already have the faculty to use such voting methods under Article 8 of the Electoral Act. The Parliament's aim was to encourage their use in order to increase participation at EP elections, while laying down the conditions to be met in case of electronic and internet voting.

Based on the discussions in the Working Party on General Affairs, the Presidency suggested merging Articles 4a and 4b and adapting them so as to use a more neutral wording ('provide for' rather than 'introduce' for all voting methods) and to explicitly refer to the possibility of advance voting. It also proposed that certain requirements would have to be met for all the voting methods mentioned, while it would also have to be clear that the list of requirements is not exhaustive.

Delegations could in principle agree to the latest drafting suggestions, although discussions have not been concluded on the corresponding recital. The Presidency considers that, with some further efforts, agreement between delegations could likely be reached in this regard as well.

9) Incompatibility for members of regional parliaments with legislative powers (Article 7)

The EP proposed amending Article 7 in order to introduce a new incompatibility with the office of an MEP, that of being a member of a '*regional parliament or assembly vested with legislative powers*'.

The Working Party on General Affairs discussed different possibilities for clarifying the interpretation of the concept of a '*regional parliament vested with legislative powers*' (notification by each Member State, listing the relevant parliaments in an Annex to the Electoral Act or including a definition in Article 7 itself). Some delegations opposed the proposed provision in its entirety.

Against this background, the Presidency proposed deleting this provision. This has been acceptable to most delegations, bearing in mind that under Article 7(3) Member States would remain free to introduce such an incompatibility at national level, while one delegation continues to prefer the original EP proposal on this issue.

10) Vote of citizens residing in third countries (Article 9a)

This issue was discussed in COREPER on 30 November 2016 as one of the five outstanding issues identified by the Presidency.

The EP proposed a new Article 9a, which would impose a general obligation on Member States to allow their citizens 'living or working' in third countries to vote in the EP elections.

During the discussion in the Working Party on General Affairs, several delegations raised a number of political concerns and practical difficulties in relation to the EP's proposal. The Presidency therefore clarified that the provision would apply to Union citizens 'residing' in a third country. It also suggested that the conditions (e.g. time limits) and modalities for the exercise of their right to vote (via postal, internet and embassy voting, or by physical presence in the home Member State) should be subject to national legislation.

Despite these efforts, some delegations maintained their reservations during the COREPER discussion on 30 November 2016, referring to the sensitivity of the issue and difficulties with implementing the provision. One delegation, on the other hand, stressed that it attached importance to this provision.

The latest Presidency drafting suggestions provide that *'Member States should take the necessary measures to allow their citizens residing in third countries to vote in elections to the European Parliament.'* One delegation still considers this wording to be too strong, whereas another has stressed that it would not be able to accept a weaker text or a deletion of this provision. Some delegations have also said that they could only accept this proposal if it was made clear that Member States can set limitations to the right to vote for their citizens residing in third countries, along the lines of the previous Presidency proposals.

There is no agreement on this provision as of November 2017.

11) Measures against 'double voting' (Articles 9 and 9b)

In a new Article 9b, which is intended to prevent citizens from casting more than one vote, the EP proposed establishing an obligation for Member States to designate a contact authority to exchange data with other Member States on EU citizens who are nationals of more than one Member State (with 'dual nationality') or who are not nationals of the Member State in which they reside ('mobile voters'). It also proposed a deadline of *'at the latest six weeks before the first day of election'* for exchanging the relevant data and specified that the data exchanged *'shall include at least the surname and forename, age, city of residence and date of arrival in the Member State concerned, of the citizen in question'*.

In the light of the discussions in the Working Party on General Affairs, the Presidency suggested broadening the scope of these provisions to also cover exchanging data on those EU citizens who exercise their right under Article 22(2) TFEU to stand as a candidate in a Member State where they reside but of which they are not nationals ('mobile candidates'). It therefore also adapted the EP's wording to enable Member States to designate, if necessary, two separate authorities for transmitting data on voters and candidates. On the other hand, it also suggested limiting the exchange of data to EU citizens who, in a Member State of which they are not nationals, *'have been entered on the electoral roll'* (rather than all mobile citizens). Moreover, it proposed removing voters with 'dual nationality' from the scope of this article, on the grounds that Member States did not gather such data and that establishing a central register of all EU citizens would not be a proportionate measure for addressing the issue. In parallel, it suggested strengthening Article 9, which establishes a ban on 'double voting', by imposing an obligation on Member States to provide for *'effective, proportionate and dissuasive penalties'* to sanction such 'double voting'.

The Working Party on General Affairs also considered in detail the issue of coordination between the Electoral Act and Council Directive 93/109/EC, which has its legal basis in Article 22(2) TFEU and includes in Article 13 detailed provisions on exchange of data on mobile voters and candidates to prevent 'double voting'. In this regard, the Presidency considered, in line with the opinions of the Council and Commission legal services, that the details regarding the data to be exchanged should be regulated by Directive 93/109/EC. However, the Electoral Act could usefully give some indications as to when Member States should start exchanging data, *'without prejudice to national provisions on the entry of voters on the electoral roll and submission of candidacies'* i.e. without harmonising the relevant deadlines in the Member States. It suggested that Member States could begin exchanging data six weeks before the first day of the electoral period. An early start with the exchange of data could be useful i.a. for the process of advance voting (by post or other means) in certain Member States. Such a deadline was supported by some delegations, while others preferred

to shorten it to 'at least four weeks' before the beginning of the electoral period. In addition, a few delegations remained sceptical as to the feasibility of regulating the matter in the Electoral Act, as it is also covered by Directive 93/109/EC and the data would in any case have to be transmitted gradually.

The Presidency considers that, with some further efforts, agreement between delegations could likely be reached on these provisions.

12) End of elections and publication of results (Article 10)

The EP proposed a number of modifications to Article 10 with a view to creating common momentum for a 'European election night' and preventing leakages of information on election results before the close of polling in all Member States. It thus suggested stipulating that the election to the EP must end in all Member States by 21.00 hours CET on the Sunday concerned. It also proposed that *'First official projections of the results shall be communicated simultaneously in all Member States at the end of the electoral period'*. On the other hand, to prevent leakages, it proposed establishing a ban on publishing exit poll-based forecasts and on the counting of postal votes before the close of polls in all Member States.

Delegations supported the general idea of trying to raise awareness among the general public of the European character of the EP elections. The Presidency organised a dedicated exchange of views in order to explore the different possibilities for doing that. During the discussion, delegations were open to considering ways of better cooperating with the EU level in order to transmit their results as they come in. They cautioned, however, against a formalised and possibly bureaucratic approach. It was also pointed out that the time needed for the counting of votes differed considerably across the Member States, which is why any 'simultaneous' announcement would not be possible. The Presidency therefore proposed that Member States must publish the results of their count 'without undue delay' after the end of the electoral period.

As regards the end of the electoral period, COREPER discussed at its meeting on 30 November 2016 a drafting suggestion whereby the election would end in all Member States no later than 21.00 hours CET, without prejudice to voting by Union citizens in a third country. The discussion confirmed that one delegation was opposed to this suggestion as its polling stations close at 23.00 CET on Sunday. The latest Presidency drafting suggestions therefore propose reverting to the original text of the Electoral Act, which does not specify the end time of the elections on Sunday.

As to the other proposals of the Parliament, delegations did not support the proposed prohibition of the publication of exit-poll-based forecasts, on the grounds that it would be difficult to reconcile with the freedom of expression and the freedom of the press. They could not agree either to the proposed ban on early counting of postal votes, on the grounds that it would unnecessarily hinder the work of electoral commissions. On the issue of a ban on the publication of results, a more general discussion was also held which revealed Member States' different concerns in this regard. In order to accommodate them, new drafting suggestions provided assurances that Member States would be able to keep their traditions of public counting of votes. The latest Presidency drafting suggestions also proposed that Member States cannot officially make public 'the final result' of their count. Some

delegations supported this wording, arguing that publishing results from individual polling stations before 23.00 CET was important for enhancing public interest in the elections, while others expressed doubts or were opposed to it on the grounds that the publication of partial results would jeopardise the spirit of the EP proposal and the formal ban on the release of official results, possibly influencing the vote in the other Member States.

There is no agreement on this article as of November 2017.

13) Electoral period (Article 11)

The EP proposed amending Article 11 to give the Parliament the power to determine, after consulting the Council, the electoral period for the EP elections at least one year before the end of the five-year term of MEPs. It thus suggested replacing the current system, which provides for a fixed electoral period and gives the Council the power to change it by a unanimous decision, after consulting the EP, when it proves 'impossible' to hold the elections at the prescribed time.

In this regard, delegations supported the view of the Council Legal Service that the amendment proposed by the EP does not comply with Article 291 TFEU, which does not provide for any role for the Parliament in the adoption of implementing acts. Instead, the Presidency proposed a new wording which kept the current system, with limited changes aimed mainly at bringing the provision into line with the Lisbon Treaty. Thus, the current provision concerning the consultation of the European Parliament (not provided for in Article 291 TFEU) was replaced by a recital stressing that it was important for the Council to cooperate closely with the EP if it wanted to change the normally applicable dates. The Presidency also introduced a recital justifying the conferral of implementing powers to the Council. The recital refers i.a. to the importance of the determination of the dates for the EP elections for the political life of the Union and of the Member States and the need to take into account Member States' national calendars. In addition, the current provisions, which link the default dates to the time of the first elections to the EP, were simplified. The new drafting suggestions refer to elections '*in the first full week of the month of June*', which is when the EP elections took place in 1979 (on 7-10 June 1979).

During the discussions in the Working Party on General Affairs this approach gained the support of a large majority of delegations. However, a few delegations sought further guarantees that their national calendars (public holidays, holding EP elections at the same time as other elections, etc.) would indeed be taken into account when determining the electoral period. The latest drafting suggestions address this concern in a recital which stresses that '*When exercising the implementing powers, the Council should in particular take into account Member States' national calendars and the importance of promoting the conditions for high voter participation.*' Other possible options, which would either not involve any default dates or would allow individual Member States to veto them, were rejected by the Presidency due to the risk of cross-vetoes. It was also suggested that individual Member States' difficulties have indeed been taken into account in the past, even if the process of deciding on the date of the EP elections has not always been easy, due to Member States' diverging interests.

The Presidency considers that, with some further efforts, agreement between delegations could likely be reached on this article.

14) Implementing measures (Article 14)

The EP proposed adapting Article 14 of the Electoral Act, which currently provides for a special procedure for the adoption of 'measures to implement' the Electoral Act (EP proposal, Council decision by unanimity after consultation of the Commission and 'endeavouring to reach agreement' in a conciliation committee consisting of EP and Council representatives). It provided for a similar procedure, but replacing the unanimity rule in the Council by QMV and the conciliation committee procedure with a requirement to obtain the EP's consent.

This EP proposal was also unacceptable to the delegations on the grounds that it does not comply with Article 291 TFEU, as also highlighted in the Council Legal Service opinion. The Presidency proposed deleting this provision entirely, with the proviso that a new provision would be drafted if there were a specific need to implement a provision of the Electoral Act uniformly at EU level.

During the discussions in the Working Party on General Affairs no such need has been identified so far. A few delegations have, however, submitted scrutiny reservations.

The Presidency considers that, with some further efforts, agreement between delegations could likely be reached on this article.

CONSOLIDATED TEXT OF THE EP'S PROPOSAL AND THE LATEST DRAFTING SUGGESTIONS

*Note: In both versions, the proposed additions to the Electoral Act are marked in **bold and italics** and the proposed deletions in ~~striketrough~~.*

Consolidated version of the Electoral Act based on the EP's proposal

Consolidated version of the Electoral Act based on the latest Presidency drafting suggestions discussed¹ in the Working Party on General Affairs

Article 1

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

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

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3. Elections shall be by direct universal suffrage and shall be free and secret.

3. Elections shall be by direct universal suffrage and shall be free and secret.

Article 2

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

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

Article 2a (new)

The Council decides by unanimity on a joint constituency in which lists are headed by each political family's candidate for the post of President of the Commission.

Deleted

¹ Between the end of 2016 and mid-2017.

Article 3

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

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

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

Member States in which the list system is used shall set a minimum threshold for the allocation of seats for constituencies which comprise more than 32 seats. This threshold shall not be lower than 3 per cent, and shall not exceed 5 per cent, of the valid votes cast in the constituency, including single-constituency Member State, concerned.

In case of changes in the number of seats allocated to a Member State, the obligation set out in the second subparagraph shall apply to that Member State as from the elections to the European Parliament which follow the upcoming ones.

Article 3a (new)

Each Member State shall set a deadline for the establishment of lists of candidates for election to the European Parliament. That deadline shall be at least 12 weeks before the start of the electoral period referred to in Article 10(1).

Where national provisions set a deadline for the submission of candidacies for election to the European Parliament, that deadline shall be at least three weeks² before the date fixed by each Member State, in accordance with Article 10(1), to hold the elections to the European Parliament³.

Article 3b (new)

The deadline for the establishment and finalisation of the electoral roll shall be eight weeks before the first election day.

Deleted

² Presidency drafting suggestions presented on 7 February 2017 (WK 1363/17), replacing the four week deadline submitted for discussion at the COREPER meeting on 30 November 2016.

³ Completed by the following recital, covering also Article 3e para 1:

Whereas:

(...) Transparency of the electoral process and access to reliable information are important for raising European political awareness and for securing a solid election turnout, and whereas it is desirable that citizens of the Union be informed well in advance about the candidates standing in the European Parliament elections and about the affiliation of national political parties to a European political party.

Article 3c (new)

Political parties participating in elections to the European Parliament shall observe democratic procedures and transparency in selecting their candidates for those elections.

Deleted⁴

Article 3d (new)

The list of candidates for election to the European Parliament shall ensure gender equality.

Deleted⁵

Article 3e (new)

The ballot papers used in elections to the European Parliament shall give equal visibility to the names and logos of national parties and to those of the European political parties.

Member States shall encourage and facilitate the provision of those affiliations in television and radio campaign broadcasts and on electoral campaign materials. Electoral campaign materials shall include a reference to the manifesto of the European political party, if any, to which the national party is affiliated.

1. Where national law allows for the display of the name or logo of a national party on ballot papers, Member States may allow for the display of the name or logo of the European political party to which the national political party or individual candidate is affiliated.⁶⁷

⁴ Replaced by recitals covering both, Article 3c and 3d:

Whereas:

(...) Articles 11 and 12 of the Charter of Fundamental Rights of the European Union state that the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers, and the right to freedom of association at all levels, for example in political and civic matters, are fundamental rights of every citizen of the Union.

(...) The Union is founded on the values of democracy, rule of law, non-discrimination, respect for human rights and equality between women and men.

(...) The autonomy of political parties is considered to be the governing principle of their internal organisation.

(...) It is important that political parties, in exercising their autonomy, adhere to these values and principles when nominating candidates for election to the European Parliament.

⁵ See above.

⁶ Presidency drafting suggestions presented on 27 April 2017 (WK 4463/17 REV 1). Earlier drafting suggestions submitted for discussion at the COREPER meeting on 30 November 2016 read as follows: '1. Where national law allows for the display of the name or logo of a national party on ballot papers, the national party may require that the name or logo of the European political party to which it is affiliated also be displayed.' On 6 December 2016, the Presidency also proposed adding a new sentence at the end of this provision: 'In Member States where the list system is not used a candidate may require that the name or logo of the European political party to which the candidate is affiliated also be displayed.'

⁷ For the recital, see footnote 3.

The rules concerning the posting of electoral materials to voters in elections to the European Parliament shall be the same as those applied for national, regional and local elections in the Member State concerned.

2. The rules concerning the sending of electoral materials⁸, by public authorities, to voters in elections to the European Parliament shall be equivalent to those applied for national elections, without prejudice to the means by which such materials are sent and without prejudice to the sending of communications concerning the organisation of the elections.

Article 3f (new)

European political parties shall nominate their candidates for the position of President of the Commission at least 12 weeks before the start of the electoral period referred to in Article 10(1).

Deleted

Article 4

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

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

Article 4a (new)

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

Member States may provide for the possibilities of advance voting, postal voting, and electronic and internet voting, in elections to the European Parliament.

Where they do so, they shall adopt measures sufficient to ensure in particular the reliability of the result, the secrecy of the vote, and the protection of personal data in accordance with the applicable Union law.⁹

⁸ To be completed by a recital providing examples of the materials concerned (ballot papers, and lists of political parties, their coalitions and candidates standing in the elections).

⁹ Completed by the following recital:

Whereas

(...) In order to encourage voter participation in the elections to the European Parliament and to fully take advantage of the possibilities offered by technological developments, Member States could provide for the possibilities of inter alia advance voting, postal voting, and electronic and internet voting, while ensuring in particular the reliability of the result, the secrecy of the vote, and the protection of personal data in accordance with the applicable Union law.

Article 4b (new)

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

Deleted¹⁰

Article 5

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

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

~~It may be extended or curtailed pursuant to the second subparagraph of Article 10 (2).¹¹~~

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

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

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

Article 6

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

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

2. Members of the European Parliament shall enjoy the privileges and immunities applicable to them by virtue of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities ***Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.***

2. Members of the European Parliament shall enjoy the privileges and immunities applicable to them by virtue of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities ***Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.***

¹⁰ Covered by Article 4a.

¹¹ In Article 5(1), the second subparagraph is deleted.

Article 7

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

- member of the government of a Member State,
- *member of a national or regional parliament or assembly vested with legislative powers,*
- member of the Commission of the European Communities,
- Judge, Advocate-General or Registrar of the Court of Justice of the European **Union** Communities or of the Court of First Instance,
- member of the Executive Board of the European Central Bank,
- member of the Court of Auditors of the European Communities,
- European Ombudsman of the European Communities,
- member of the Economic and Social Committee of the European Community and of the European Atomic Energy Community,
- member of the Committee of the Regions,
- member of committees or other bodies set up pursuant to the ~~Treaties establishing the European Community and the Treaty on the Functioning of the European Union~~ **or the Treaty establishing** the European Atomic Energy Community for the purposes of managing the ~~Communities'~~ **Union's** funds or carrying out a permanent direct administrative task,
- member of the Board of Directors, Management Committee or staff of the European Investment Bank,

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

- member of the government of a Member State,
- *member of a national parliament,*
- member of the Commission of the European Communities,
- Judge, Advocate-General or Registrar of the Court of Justice of the European **Union** Communities or of the Court of First Instance,
- member of the Executive Board of the European Central Bank,
- member of the Court of Auditors of the European Communities,
- European Ombudsman of the European Communities,
- member of the Economic and Social Committee of the European Community and of the European Atomic Energy Community,
- member of the Committee of the Regions,
- member of committees or other bodies set up pursuant to the ~~Treaties establishing the European Community and the Treaty on the Functioning of the European Union~~ **or the Treaty establishing** the European Atomic Energy Community for the purposes of managing the ~~Communities'~~ **Union's** funds or carrying out a permanent direct administrative task,
- member of the Board of Directors, Management Committee or staff of the

European Investment Bank,

- active official or servant of the institutions of the European Union or of the specialised bodies attached to them or of the European Central Bank.

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

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

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

~~— members of the United Kingdom Parliament who are also members of the European Parliament during the five-year term preceding election to the European Parliament in 2004 may have a dual mandate until the 2009 European Parliament elections, when the first subparagraph of this paragraph shall apply.¹²~~

3. In addition, each Member State may, in the circumstances provided for in Article 7, extend rules at national level relating to incompatibility.

4. Members of the European Parliament to whom paragraphs 1, 2 and 3 become applicable in the course of the five-year period referred to in Article 3 shall be replaced in accordance with Article 13~~12~~.

Article 8

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

- active official or servant of the institutions of the European Union or of the specialised bodies attached to them or of the European Central Bank.

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

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

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

~~— members of the United Kingdom Parliament who are also members of the European Parliament during the five-year term preceding election to the European Parliament in 2004 may have a dual mandate until the 2009 European Parliament elections, when the first subparagraph of this paragraph shall apply.~~

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

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

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

¹² Paragraph 2 is deleted.

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

Article 9

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

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

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

Member States shall take necessary measures to ensure that double voting in the elections for the European Parliament is subject to effective, proportionate and dissuasive penalties.

Article 9a (new)

All Union citizens, including those living or working in a third country, shall have the right to vote in elections to the European Parliament. Member States shall take the necessary measures to ensure the exercise of this right.

Member States should take the necessary measures to allow their citizens residing in third countries to vote in elections to the European Parliament.¹³¹⁴

Article 9b (new)

Each Member State shall designate the contact authority responsible for exchanging data on voters with its counterparts in the other Member States. That authority shall transmit to those counterparts, at the latest six weeks before the first day of the election and via uniform and secure electronic means of communication, data concerning Union citizens who are nationals of more than one Member State and Union citizens who are not nationals of the Member State in which they

Each Member State shall designate a contact authority responsible for exchanging data on voters and candidates with its counterparts in the other Member States.

¹³ Presidency drafting suggestions presented on 10 May 2017 (WK 5277/17). Earlier drafting suggestions submitted for discussion at the COREPER meeting on 30 November 2016 read as follows: 'Union citizens residing in a third country shall have the right to vote in elections to the European Parliament. Member States shall define the conditions and modalities for the exercise of this right by their nationals.'

¹⁴ In addition, the following recitals covering this Article would be included:

Whereas:

(...) Citizens of the Union have the right to participate in its democratic life by voting or standing as candidates in elections to the European Parliament.

are residing.

The information transmitted shall include at least the surname and forename, age, city of residence, and date of arrival in the Member State concerned, of the citizen in question.

Without prejudice to national provisions on the entry of voters on the electoral roll and submission of candidacies, the authority referred to in the first paragraph shall, in accordance with EU data protection standards, begin transmitting to those counterparts, [six weeks] before the first day of the electoral period referred to in Article 10(1), the data indicated in Directive 93/109/EC concerning Union citizens who, in a Member State of which they are not nationals, have been entered on the electoral roll or are standing as candidates.

Article 10

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

2. Member States shall not officially make public the results of their count until after the close of polling ~~in the Member State whose electors are the last to vote within the period referred to in paragraph 1.~~ *First official projections of the results shall be communicated simultaneously in all Member States at the end of the electoral period specified in paragraph 1. Prior to this no exit poll-based forecasts may be published.*

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

2. *Without prejudice to the possibility of providing for public counting of votes in line with their electoral traditions,* Member States shall not officially make public the *final* result of their count until after the close of polling *in the Member State whose electors are the last to vote within the period referred to in paragraph 1.*¹⁵

¹⁵ Presidency drafting suggestions presented on 2 March 2017 (WK 2252/17). Earlier drafting suggestions submitted for discussion at the COREPER meeting on 30 November 2016 read as follows:

'1. Elections to the European Parliament shall be held on the date and at the times fixed by each Member State. For all Member States this date shall fall within the same period starting on a Thursday morning and ending on the following Sunday. *Without prejudice to voting of Union citizens in a third country, the election shall end in all Member States no later than 21:00 hours CET on that Sunday.*

2. ~~Member States shall not officially make public the results of their count until after the close of polling in the Member State whose electors are the last to vote within the period referred to in paragraph 1.~~ *Member States shall publish the results of their count, without undue delay, after the end of the electoral period specified in paragraph 1.*

Without prejudice to the possibility of providing for public counting of votes in line with their electoral traditions, Member States shall not officially make public the results of their count prior to the close of polling in all Member States.'

3. The counting of postal votes shall begin in all Member States once the polls have closed in the Member State whose voters vote last within the electoral period referred to in paragraph 1.

3. Deleted

Article 11

1. The ~~Council~~ **European Parliament**, acting ~~unanimously~~ after consulting the ~~European Parliament Council~~, shall determine the electoral period for the first elections: **at least one year before the end of the five-year term referred to in Article 5.**

1. **Elections to the European Parliament shall be held in the first full week of the month of June in the final year of the five-year term referred to in Article 5.** The ~~Council, acting unanimously after consulting the European Parliament,~~ shall determine the electoral period for the first elections.

2. ~~Subsequent elections shall take place in the corresponding period in the last year of the five-year period referred to in Article 3.~~

2. ~~Subsequent elections shall take place in the corresponding period in the last year of the five-year period referred to in Article 3.~~

~~Should it prove impossible to hold the elections in the Community during that period, the Council acting unanimously shall, after consulting the European Parliament, determine, at least one year before the end of the five-year term referred to in Article 3, another electoral period which shall not be more than two months before or one month after the period fixed pursuant to the preceding subparagraph.~~

Should it prove impossible to hold the elections in the **Union**Community during that period, the Council acting unanimously shall, after consulting the European Parliament, determine by means of an implementing act, at least one year before the end of the five-year term referred to in Article 5, another electoral period which shall not be more than two months before or one month after the period fixed pursuant to the preceding subparagraph.¹⁶

3. Without prejudice to Article ~~139~~**229** of the Treaty **on the Functioning of the European Union**, establishing the European Community and Article 109 of the Treaty establishing the European Atomic Energy Community, the

3. Without prejudice to Article ~~139~~**229** of the Treaty **on the Functioning of the European Union**, establishing the European Community and Article 109 of the Treaty establishing the European Atomic Energy

¹⁶ Completed by the following recitals:

Whereas:

- (...) **Member States should be given the possibility to fix the date and the time of the elections to the European Parliament within a common electoral period. Such common electoral period should correspond to the one chosen for the first elections to the European Parliament.**
- (...) **Where it is impossible to hold the elections to the European Parliament during that period, an alternative period can be determined by means of an implementing act. Given the importance of such a determination for the political life of the Union and of the Member States, and its impact on the electoral agenda of the Member States, and in order to take into account of Member States' national calendars, implementing powers should be conferred on the Council. When exercising the implementing powers, the Council should in particular take into account Member States' national calendars and the importance of promoting the conditions for high voter participation.**
- (...) **The Council should closely cooperate with the European Parliament when assessing the existence of the impossibility to hold the elections in the period corresponding to the one of the first elections and in view of determining an alternative electoral period.**

European Parliament shall meet, without requiring to be convened, on the first Tuesday after expiry of an interval of one month from the end of the electoral period.

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

Article 12

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

Article 13

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

2. Subject to the other provisions of this Act, each Member State shall lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office referred to in Article 3 for the remainder of that period.

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

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

~~Community~~, the European Parliament shall meet, without requiring to be convened, on the first Tuesday after expiry of an interval of one month from the end of the electoral period.

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

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

Article 14

Should it appear necessary to adopt measures to implement this Act, the Council, acting unanimously on a proposal from the Assembly after consulting the Commission, shall adopt such measures after endeavouring to reach agreement with the Assembly in a conciliation committee consisting of the Council and representatives of the Assembly. ***Measures to implement this Act shall be proposed by the European Parliament, acting by a majority of its component members, and adopted by the Council, acting by a qualified majority, after consulting the Commission and obtaining the consent of the European Parliament.***

Article 15

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

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

Annex I

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

Annex II

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

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

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