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NOTE

From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	9333/22 (EP proposal), 14904/23
Subject:	Proposal for a COUNCIL REGULATION on the election of the Members of the European Parliament by direct universal suffrage, repealing Council Decision 76/787/ECSC, EEC, Euratom and the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to that Decision ("European Electoral Law") - Policy debate

1. On 3 May 2022, the European Parliament adopted a draft legislative proposal for a new Electoral law¹ based on Article 223 TFEU.
2. At its meeting on 7 November 2022, the Working Party on General Affairs discussed the main elements of the proposal, in particular the provisions relating to the Union-wide constituency, electoral thresholds, gender equality and the single election day.

¹ Doc. 9333/22.

3. The Council (General Affairs) discussed this matter on two occasions, on 18 October 2022 and 27 June 2023. At the latter, the Swedish Presidency presented the results of a survey² which had confirmed the wide divergences among delegations on a large range of features. The (at the time incoming) Spanish Presidency had then indicated its intention to work further on the proposal, building on the survey.
 4. As indicated at the meeting of the Committee of Permanent Representatives on 8 November, the Council (General Affairs) will hold a policy debate on 15 November 2023 on the basis of the Presidency discussion paper and questions set out in the Annex.
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² Doc. 10278/2/23 REV 2.

"European Electoral Law"**- Presidency discussion paper for the policy debate -**

The Spanish Presidency announced at the beginning of its semester that it would continue work on the European Electoral Law. It undertook, on the one hand, to invite Member States to hold a policy debate in the General Affairs Council (GAC) on the most politically important issues, such as the European constituency and transnational lists. On the other hand, it undertook to hold a technical debate by grouping into clusters the Articles on which there was most consensus among Member States in the light of the results of the Swedish Presidency's survey.

Following this first commitment, and in the light of the importance attached by the EP to this dossier, as well as its link with the broader debate on the future of Europe in the light of the conclusions of the COFE, the Spanish Presidency considers it appropriate to hold this political debate at the GAC on 15 November 2023. This debate is intended to provide guidance on the future work on this proposal, in particular with regard to the proposals on the European constituency and transnational lists.

These issues have been addressed in a preliminary way under previous Presidencies. A significant number of Member States indicated that they could not support transnational lists, while another group considered it essential for the Council to deal with these proposals in depth. In particular, the first and only political debate on the proposed European Electoral Law took place under the Czech Presidency at the GAC on 18 October 2022. Member States expressed their initial positions on these issues. In the framework of the Swedish Presidency's survey on the Articles of the proposed European Electoral Law, 13 to 15 Member States considered each of the paragraphs of Article 15 – concerning the single electoral constituency – as “not acceptable”, due, among other things, to major legal and institutional problems at national level.

The Spanish Presidency considers that harmonizing the electoral systems of the Member States in the European elections is a reasonable longstanding objective, while being sensitive to the need to preserve the electoral principles of the different Member States, which are often connected with their respective constitutional framework. The European Parliament proposes the creation of a European Union constituency (Article 15), with the following characteristics: 28 seats (at least in the first elections), whose incumbents would be elected by European citizens through a vote differentiated from their vote for the national lists (Article 12.1). In casting their vote on the Union-wide constituency, citizens would choose between a series of transnational lists created by the various European electoral entities (parties, coalitions, groupings, etc.; Article 2) standing for election.

The transnational lists, of 28 candidates, would be closed lists, identified with the logo of the European electoral entities on the ballot paper. The lists would have 3 sections of 3 seats and each section would be filled with candidates coming from the 3 groups of Member States that are created according to the demographic size. Finally, the distribution of seats would be done by the D'Hondt method.

The Spanish Presidency's intention is to continue technical work on the basis of the results of the Swedish Presidency's survey. Therefore, work could begin on the Articles relating to the prohibition of double voting (Articles 4.2 and 4.3) and the accessibility of the vote (Article 7). If there is consensus, a discussion on other clusters of Articles relating to gender, the election campaign, or the proclamation of results could be considered. It should be noted that the technical discussion will not focus on the wording of the Articles, but rather on what substantive elements are acceptable in order to move forward in the discussions on the text.

Questions for the debate in Council

- *Do the Member States consider it feasible to move forward in discussing the more political issues of the Electoral Law?*
 - *Do the Member States agree on the basic idea of transnational lists and the European constituency? Are the problems mainly of a technical nature?*
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