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European Union

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**INST 195**  
**PE 55**  
**JUR 362**  
**FREMP 104**

**PROPOSAL**

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From:	Roberta METSOLA, President of the European Parliament
date of receipt:	19 May 2022
To:	Jean-Yves LE DRIAN, President of the Council of the European Union
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

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Delegations will find attached the European Parliament legislative resolution and a proposal for a Council Regulation on the above subject.

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Encl.: P9\_TA(2022)0129



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## TEXTS ADOPTED

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### **P9\_TA(2022)0129**

#### **Election of the Members of the European Parliament by direct universal suffrage**

**European Parliament legislative resolution of 3 May 2022 on the 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 (2020/2220(INL) – 2022/0902(APP))**

*The European Parliament,*

- having regard to the Declaration of 9 May 1950 that proposed the creation of the European Coal and Steel Community (ECSC) as a first step in the federation of Europe,
- having regard to the Act concerning the election of the members of the European Parliament by direct universal suffrage ("the Electoral Act") annexed to Council decision 76/787/ECSC, EEC, Euratom of 20 September 1976, as amended by Council Decision 2002/772/EC, Euratom, of 25 June 2002 and 23 September 2002<sup>1</sup>, and by Council Decision (EU, Euratom) 2018/994 of 13 July 2018<sup>2</sup>,
- having regard to the Treaties and in particular to Articles 2, 3, 9, 10, 14 and 17(7) of the Treaty on European Union (TEU) and to Articles 8, 20, 22, 223(1) and 225 of the Treaty on the Functioning of the European Union (TFEU), and to Article 2 of Protocol No 1 on the role of national parliaments in the European Union,
- having regard to Protocol No 7 on the Privileges and Immunities of the European Union,
- having regard to Council 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 Union residing in a Member State of which they are not nationals<sup>3</sup>,

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<sup>1</sup> OJ L 283, 21.10.2002, p. 1.

<sup>2</sup> OJ L 178, 16.7.2018, p. 1.

<sup>3</sup> OJ L 329, 30.12.1993, p. 34.

- having regard to its previous resolutions on the European Parliament’s electoral procedure, and in particular its resolution of 15 July 1998 on a draft electoral procedure incorporating common principles for the election of Members of the European Parliament<sup>1</sup>, its resolution of 22 November 2012 on the elections to the European Parliament in 2014<sup>2</sup>, its resolution of 4 July 2013 on improving the practical arrangements for the holding of the European elections in 2014<sup>3</sup>, and its resolution of 11 November 2015 on the Reform of the electoral law of the EU<sup>4</sup>,
- having regard to its resolutions of 13 March 2013<sup>5</sup> and 7 February 2018<sup>6</sup> on the composition of the European Parliament,
- having regard to its resolution of 26 November 2020 on stocktaking of European elections<sup>7</sup>,
- having regard to Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations<sup>8</sup>, and in particular Articles 13, 21 and 31 thereof,
- having regard to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission,
- having regard to the European Economic and Social Committee information report on real rights of persons with disabilities to vote in European Parliament elections adopted in its plenary session on 20 March 2019<sup>9</sup> and its additional opinion on the need to guarantee real rights for persons with disabilities to vote in European Parliament elections adopted on 2 December 2020<sup>10</sup>,
- having regard to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), ratified by the EU in 2010, and by all Member States, and Article 29 thereof on participation in political and public life,
- having regard to Commission Communication of 3 March 2021 entitled "Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030" (COM(2021)0101),

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<sup>1</sup> OJ C 292, 21.9.1998, p. 66.

<sup>2</sup> OJ C 419, 16.12.2015, p. 185.

<sup>3</sup> OJ C 75, 26.2.2016, p. 109.

<sup>4</sup> OJ C 366, 27.10.2017, p. 7.

<sup>5</sup> OJ C 36, 29.1.2016, p. 56.

<sup>6</sup> OJ C 463, 21.12.2018, p. 83.

<sup>7</sup> OJ C 425, 20.10.2021, p. 98.

<sup>8</sup> OJ L 317, 4.11.2014, p. 1.

<sup>9</sup> <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/information-reports/real-right-persons-disabilities-vote-european-parliament-elections-information-report>.

<sup>10</sup> <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/need-guarantee-real-rights-persons-disabilities-vote-european-parliament-elections-additional-opinion>.

- having regard to Commission Communication of 3 December 2020 on the European democracy action plan (COM(2020)0790),
  - having regard to the Charter of Fundamental Rights of the European Union (Charter), and in particular Articles 11, 21, 23 and 39 thereof,
  - having regard to the European Pillar of Social Rights, and in particular its principle 1,
  - having regard to the International Covenant on Civil and Political Rights, and in particular Article 25 thereof,
  - having regard to the work of the Inter-Parliamentary Union (IPU) on gender equality, in particular its action plan for gender-sensitive parliaments,
  - having regard to the State of the Union 2021 speech in which Ursula von der Leyen announced that the year 2022 will be the year of youth,
  - having regard to the Commission's proposal for the European Year of Youth 2022,
  - having regard to Rules 46 and 54 of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs (A9-0083/2022),
- A. whereas since 1976, when the Electoral Act paved the way for the election of the representatives of the European Parliament by direct universal suffrage for the first time, the European Parliament has continuously requested the reform of European electoral law and moves towards a more genuine, uniform and European electoral procedure;
- B. whereas the Lisbon Treaty has offered a positive step forward by confirming the right of the European Parliament to initiate a proposal on the Electoral Act as well as on its composition;
- C. whereas other important changes in the Lisbon Treaty concerned in particular the wording of Article 14 TEU, stating that the Parliament is to be composed of representatives of the citizens of the Union and not peoples of the Member States, as well as the reference to the Parliament's role in the election of the President of the Commission, who should be elected taking into account the results of the European Parliament elections;
- D. whereas the procedure for the 2014 elections set a precedent for the role of the Parliament in the selection of the President of the Commission; whereas it was not possible for that procedure to become part of an overall reform of European electoral law, which contributed to creating the political background for the unexpected disapplication of the lead candidate principle following the European elections of 2019; whereas the lead candidate whose European political entity has received the overall highest number of seats should be tasked first with forming a coalition majority in the newly elected Parliament as regards the nomination of a candidate for President of the Commission; whereas in case a coalition majority cannot be reached, the task should be assigned to the next lead candidate; whereas Parliament expects the President of the European Council to consult the said leaders of the European political entities and

parliamentary groups in order to inform the nomination process, and considers that this lead candidate process could be formalised by a political agreement between the European political entities and by an Interinstitutional Agreement between Parliament and European Council;

- E. whereas some existing common provisions in the current European Electoral Act show the way towards necessary improvements, including those which provide for candidates to be elected by proportional representation using a list system or a single transferable vote system; for the freedom to establish constituencies at national level; for the introduction of a maximum electoral threshold of 5% in the national constituencies as a means of guaranteeing that the Parliament is able to function; and for the prohibition of MEPs to hold a dual mandate in national and European Parliament;
- F. whereas, despite some steps forward in defining common standards of electoral procedures for the European Parliament, today European elections are still mostly governed by national laws and therefore more improvements are needed to establish a genuinely uniform procedure for European elections;
- G. whereas the turnout registered in the 2019 European elections was the highest of any elections to the European Parliament in the last 20 years; whereas the participation rate hides wide disparities between Member States; whereas increased turnout is a positive signal and shows that citizens, and in particular the youngest generations of the Union are taking an increasing interest in the development of the European integration, as indicated also by the results of the special Eurobarometer of 9 March 2021; whereas this rate still means that only half of the Union citizens took part; whereas increased interest in European elections signals that Union citizens demand swift action from the Union in the field of climate change, economic recovery, the protection of human rights and rule of law, migration, and the role of the European Union in international relations; whereas communication efforts must be made to increase citizen's interest in European issues and the role of European political parties and foundations in that regard;
- H. whereas the trend of a growing voter turnout can be improved if the connection and accountability between voters and candidates are strengthened and the Union-wide dimension is fostered;
- I. whereas a functioning electoral system builds trust and support among the population and increases the confidence of citizens of the Union in their capacity to change society democratically by voting;
- J. whereas the approval by Member States of Council Decision (EU, Euratom) 2018/994 of 13 July 2018 is still pending but does not preclude the necessary changes in the Union's electoral systems;
- K. whereas growing political momentum across Europe could offer the possibility of introducing elements and provisions that strengthen the European dimension of the elections;
- L. whereas an appropriate approach to reforming the European electoral law should be based on respect for the principles of subsidiarity and proportionality and the introduction of common minimum standards;

- M. whereas the reform of the European Parliament's electoral procedure should aim to enhance the democratic and transnational public debate and dimension of the European elections and the democratic legitimacy of the Union decision-making process, reinforce citizenship in the Union, improve the functioning of the European Parliament and the governance of the Union, make the work of the European Parliament more legitimate and legislative by giving it a genuine right of initiative, strengthen the principles of electoral equality and equal opportunities, especially between women and men, enhance the effectiveness of the system for conducting European elections, and bring Members of the European Parliament closer to their voters, and in particular the youngest amongst them;
- N. whereas Recommendation 16 of the European Citizens' Panel 2 on European democracy / Values and rights, rule of law, security of the Conference on the Future of Europe calls for an electoral law for the European Parliament that harmonizes electoral conditions (voting age, election date, requirements for electoral districts, candidates, political parties and their financing), and for European citizens to have the right to vote for different European Union level parties that each consist of candidates from multiple Member States, and that during a sufficient transition period, citizens could still vote for both national and transnational parties;
- O. whereas the Youth Ideas Report released as the outcome of the European Youth Event (EYE) from 22 to -23 October 2021 suggests using transnational lists, where voters would be given a list of national candidates, and an additional list with candidates from all Member States; whereas that report also supports the enforcement of the lead candidate process;
- P. whereas the Third Interim Report of the multilingual digital platform of the Conference on the Future of Europe, considers that one of the more frequently discussed proposals, and a widely endorsed idea, concerns the creation of EU-wide transnational electoral lists;
- Q. whereas the midterm political agreement "Our priorities for Europeans" endorsed on 17 January 2022 by the leaders of the EPP, S&D and Renew Groups, called for a "lead candidate process combined with transnational lists with a sufficient number of seats to be in place for the next European elections";
- R. whereas the principles of proportionality and equal opportunities have to be considered in regards to minorities, which are underrepresented in the European Parliament; whereas approximately 20 MEPs out of 705 declare that they belong to a minority (=2,8%)<sup>1</sup>; whereas the Venice Commission acknowledges the role of guaranteed reserved seats for members of national minorities, lower electoral thresholds in proportional electoral systems for parties representing national minorities or the designation of electoral districts with the purpose to enhance the minorities' participation in the decision-making process<sup>2</sup>;

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<sup>1</sup> Based on data from the European Parliament's Intergroup for Traditional Minorities, National Communities and Languages.

<sup>2</sup> Compilation of Venice Commission Opinions and Reports Concerning Electoral Systems and National Minorities CDL-PI(2019)004, in particular its Report on Electoral Law and National Minorities CDL-INF (2000).

- S. whereas the possibility of developing a uniform electoral procedure based on direct universal suffrage has been enshrined in the Treaties since 1957;
- T. whereas the right of all citizens of the Union to participate, on an equal basis, in the democratic life of the Union would be promoted by an increasing harmonisation of the procedure for elections to the European Parliament in all the Member States, which would also strengthen the political dimension of European integration;
- U. whereas European political parties contribute to forming European political awareness and should therefore play a stronger role in the campaigns for elections to the European Parliament in order to improve their visibility and to make clear the link between a vote for a particular national party and the impact it has on the size of a European political group in the European Parliament and on the nomination of the President of the Commission;
- V. whereas associations of voters or electoral entities which do not belong to a European political party are called to play a role in the campaigns for elections to the European Parliament in order to increase the involvement of citizens in the election process;
- W. whereas the procedure for nominating candidates for elections to the European Parliament varies considerably from Member State to Member State and from party to party, in particular as regards transparency, democratic and gender equality standards; whereas, however, open, transparent and democratic procedures respecting gender equality for the selection of candidates are essential for building trust in the political system;
- X. whereas the deadlines for finalising electoral lists ahead of European elections vary greatly among Member States, currently ranging from 17 days to 83 days; whereas this puts candidates and voters across the Union in an unequal position when it comes to the time they have to campaign or to reflect on their voting choice;
- Y. whereas the deadlines for finalising the electoral roll ahead of European elections vary greatly among Member States and could render the exchange of information between Member States on voters (which is aimed at the avoidance of double voting) difficult, if not impossible;
- Z. whereas the establishment of a Union-wide constituency in which lists are headed by each political family's candidate for the post of President of the Commission would strengthen European democracy and further legitimise the election of the President of the Commission and his or her accountability; whereas this could contribute to the construction of a European political space and to make the elections to the European Parliament truly based on European issues and not on issues of exclusively national interest;
- AA. whereas at their informal meeting on 23 February 2018, the Heads of State and Government decided to continue their reflections, as well as the technical, legal and political work, on the issue of the transnational lists being set up for the 2024 elections;
- AB. whereas not all Member States give their citizens the possibility of voting from abroad, and among those that do, the conditions for granting them the right to vote vary greatly; whereas granting all citizens of the Union residing outside the Union the right to

participate in elections would contribute to electoral equality; whereas, however, Member States need to coordinate their administrative systems better in order to prevent voters from voting in two different Member States;

- AC. whereas many people with disabilities want to vote at a polling station; whereas in 12 Member States national rules do not make it possible to switch from the polling station assigned on the basis of place of residence to another which is more suitable in the light of the voter's disability; whereas Article 29 of the UNCRPD explicitly stipulates that the States Parties undertake to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others; whereas any barriers to the right to vote and to stand as candidate for persons with disabilities, especially legal barriers for adults with disabilities declared legally incapacitated should be removed, guaranteeing accessibility throughout the election process, including by providing additional participation systems to exercise the right to vote, in particular through postal voting;
- AD. whereas an electoral authority, acting as an independent body and ensuring the correct implementation of the European electoral law should be set up at Union level as a network of Member States' single contact authorities, as this would facilitate access to information on the rules governing the European elections, as well as streamlining the process, managing in particular the Union-wide constituency and enhancing the European character of those elections;
- AE. whereas postal voting could enable more voters to participate and make the conduct of European elections more efficient and more appealing for voters, whilst ensuring the highest possible standards of data protection and maintaining vote at polling stations as the norm; whereas Member States may provide complementary voting tools to enhance participation such as proxy voting, electronic or internet voting, in accordance with their national traditions; whereas many national bodies for the protection of digital freedoms have expressed reservations about online voting; whereas online voting presents increased difficulties with regard to the fundamental principles governing electoral operations (the secrecy of the ballot, the personal and free nature of the vote, the sincerity of electoral operations, effective monitoring of the vote and a posteriori control by the election judge) ; whereas those difficulties can be overcome by a common regulatory framework and procedure in which the highest standards of data protection, election integrity, transparency, reliability, secrecy of the vote are guaranteed;
- AF. whereas Article 7(1) of the Act concerning the election of members of the European Parliament by direct universal suffrage of 20 September 1976 establishes that “the office of member of the European Parliament shall be incompatible with that of member of the Commission”;
1. Suggests the reform of its electoral procedure with the goal of shaping, in a concrete way, a European public sphere, by suggesting common minimum standards and legislative changes ahead of the 2024 European elections;
  2. Considers it essential to improve the transparency and democratic accountability of the Parliament, by strengthening the European dimension of the elections, notably by transforming the European elections into a single European election, especially through the establishment of a Union-wide constituency, as opposed to the collection of 27



separate national elections, which is the way that European elections are organised today;

3. Believes that European political parties, associations of voters and other European electoral entities should play a more central role in the European elections process, should become clearly visible for voters, and should be given adequate support and funding allowing them to fulfil their role;
4. Reminds that diverging electoral cultures have resulted in a range of different electoral systems and different voting rights across the Union; considers that common minimum democratic standards in the European electoral law can promote a genuine public European debate and ensure equality of the Union citizens, including as regards: the right to vote, the right to register a party, an association of voters or other electoral entities and to stand for elections; access to ballots; the fielding of candidates, including gender equality; accessibility of voting for all citizens, especially for persons with disabilities; or what happens on the day of the elections;
5. Calls for the establishment of a common framework, with benchmarks and minimum standards for election rules across the Union, and suggests focusing on a strong coordination with national measures for implementing the core of its proposals;
6. Calls on the Union institutions to take into account the priorities identified by Union citizens in the context of the Conference on the Future of Europe;
7. Notes the role of the Commission as facilitator in the institutional talks between the European Parliament and the Council on the reform of the European electoral law; considers it essential to engage in a constructive dialogue with the Commission *inter alia* in order to evaluate and take inspiration from the results of the European Cooperation Network on Elections, as established in 2019;
8. Highlights the links between the suggested measures for the review of the Electoral Act, and Parliament's Rules of Procedure, Regulation (EU, Euratom) No 1141/2014 and the European Commission Democracy Action Plan of December 2020, notably on elements such as:
  - the way in which elections are governed, namely by rules applicable only within a particular jurisdiction or that might not have been formulated taking into consideration the borderless online space,
  - the cooperation between regulatory authorities of the Member States, which needs to be strengthened,
  - transparency in political advertising and communication, which should also be reflected in the provisions of the Electoral Law;
9. Considers gender equality to be a key element for improving representation in elections; welcomes the overall improvement in gender equality in the last elections, but stresses that there are significant differences between Member States, with some not having elected to Parliament a single woman; calls for the introduction of measures that ensure equal opportunities for women and men to be elected without infringing the rights of non-binary people, through the use of zipped lists or quotas;

10. Regrets that most national and linguistic minorities are not usually represented in the European Parliament; points out in this regard the effective barrier that electoral thresholds represent for parties representing minority communities running in single national constituencies or in large, densely populated constituencies; considers therefore that the European electoral law should provide for the possibility of exemptions from nationally provided thresholds for entities representing recognised national and linguistic minorities;
11. Considers it essential that both European and national political parties and associations of voters and other European electoral entities adopt democratic, informed and transparent procedures for the selection of candidates to the European Parliament, including the lead candidate, ensuring the direct involvement of individual citizens who are party members, including, but not limited to, the election of delegates; considers that such democratic selection should be accompanied by the necessary information as regards the capacities and performance of the aspiring candidates;
12. Believes that all European voters should be allowed to vote for their preferred candidate for the President of the Commission, and that lead candidates should be able to stand in all Member States on Union-wide lists, nominated by a European political party, by a European association of voters or by other European electoral entity, putting forward a common electoral programme;
13. Calls on European political parties, European associations of voters and European electoral entities to nominate their candidates for the position of President of the Commission at least 12 weeks before the election day; considers that binding democratic procedures and transparency in the selection should be ensured; expects candidates to be placed in the first position of the corresponding list of the Union-wide constituency;
14. Calls for enhancing the visibility of European political parties, European associations of voters and other European electoral entities through media campaigns and on ballot papers and all electoral materials; determines that national parties and associations of voters should indicate, where applicable, their affiliation to the European political parties, or other European electoral entities and to the corresponding lead candidate during the electoral campaign;
15. Notes that a coordinated media strategy at European level to ensure coverage and monitoring of the European elections would help to increase citizens' interest in them;
16. Expects the leaders of the European political parties and parliamentary groups to agree on a common indication to the European Council on the basis of the outcome of the European elections as well as on a majority in the newly elected Parliament as regards the nomination of a candidate for President of the Commission; expects the President of the European Council to consult the said leaders of the European political entities and parliamentary groups in order to inform the nomination process; considers that this lead candidate process could be formalised by a political agreement between the European political entities and by an Interinstitutional Agreement between Parliament and European Council;
17. Proposes establishing the practice for interested parliamentary groups to conclude a "legislature agreement" in order to ensure a political follow-up to the European

elections and as a way to secure a majority within the Parliament ahead of the appointment of the Commission;

18. Considers that the introduction of a Union-wide constituency, from which twenty-eight Members of the European Parliament are to be elected without affecting the number of representatives in the European Parliament elected in each Member State and in which lists are headed by each political family's candidate for the post of President of the Commission, offers an opportunity to enhance the democratic and transnational dimension of the European elections; believes that the goal of establishing a Union-wide constituency is achievable if gender equality is ensured as well as geographical balance, by guaranteeing that smaller Member States are not put at a competitive disadvantage compared to the larger Member States; suggests in this respect introducing binding geographical representation in the lists for the Union-wide constituency, and encourages European political parties, European associations of voters and other European electoral entities to appoint candidates in the Union-wide lists coming from all Member States;
19. Emphasises that the establishment of a Union-wide constituency in which Members are elected on the basis of transnational lists is compatible with the Treaties, and in particular with Article 14(2) TEU; considers that support for a uniform European electoral law with Union-wide lists, and a binding system of lead candidates has been gaining political momentum;
20. Believes that Union-wide lists are a lever that can be used to bring about representativeness and the formation of effective European political parties and associations of voters;
21. Suggests including common provisions governing expenditure linked to the European electoral campaign for each entity admitted for the purpose of tabling a list of candidates for Members of the European Parliament in the Union-wide constituency; calls for strong coordination with the upcoming revision of Regulation (EU, Euratom) No 1141/2014 on this matter;
22. Considers that funding of European political parties and other European electoral entities from the general budget of the European Union or from any other source may be used to finance campaigns conducted by the European electoral entities in the context of elections to the European Parliament in the Union-wide constituency in which they or their members participate; considers that funding and limitation of election expenses in the national constituencies, are to be governed in each Member State by its national provisions;
23. Recalls that the minimum age for eligibility to stand as a candidate across the 27 Member States varies between 18 and 25 and the minimum age for eligibility to vote varies between 16 to 18; calls for the introduction of a single, harmonised age for, respectively, passive and active voting rights across Member States and recommends them to introduce a minimum voting age of 16, without prejudice to existing constitutional orders establishing a minimum voting age of 18 or 17 years of age; is of the opinion that giving the right to vote at the age of 16 would reflect current rights and duties that the European young people already have in some Member States;

24. Proposes to introduce the possibility for temporary replacement of Members on maternity, paternity, parental and long sick leave;
25. Considers transparency of the electoral process and access to reliable information to be essential elements for raising European political awareness and securing an election turnout that is high enough to constitute a mandate from the electorate; highlights that citizens should be informed well in advance - notably 12 weeks before the elections - about the candidates standing in the European elections and about the affiliation of national political parties or electoral associations to a European political party or European electoral association;
26. Suggests that measures be taken and safeguards be put in place to avoid foreign interference in the electoral process;
27. Highlights that the deadlines for finalising the electoral roll ahead of European elections vary greatly among Member States; suggests establishing a European electoral roll and setting a common standard for the establishment and finalisation of the national electoral roll no later than fourteen weeks before the election day, in order to render the information on voters more accurate and to make its exchange between Member States easier, as well as to facilitate the prevention of double voting, ensuring that such double voting, whether the result of an administrative mistake or of breaches of electoral law is subject to effective, proportionate and dissuasive penalties at national level, and results in corrective measures by the Member States;
28. Proposes establishing a European Electoral Authority in charge of coordinating information on the European elections, monitoring the implementation of and resolving disputes on the common standards of the European electoral law, managing the European electoral roll, proclaiming the electoral results, and supervising the exchange of information on voting by citizens of the Union outside their home country; considers that such a body could facilitate an efficient exchange of information, and in particular the sharing of best practices, between national bodies; suggests that an essential task of the European Electoral Authority be the management of the register of electoral lists for the Union-wide constituency; calls on the budgetary authorities to ensure that the European Electoral Authority will have sufficient resources to fulfil its tasks;
29. Suggests that common minimum standards should be defined to introduce uniform requirements for the establishment of electoral lists;
30. Considers it essential to facilitate access to voting in European elections and to guarantee that all those who have the right to vote, including citizens of the Union living outside their country of origin, those without a permanent residence, those living in closed residential settings, those experiencing homelessness and prisoners, are able to exercise that right; calls on Member States to ensure access to information and voting on an equal basis for all citizens, including for persons with disabilities by allowing for instance the renting of adapted premises when public structures are not adapted;
31. Calls on Member States to introduce measures to maximise the accessibility of the elections for citizens with disabilities covering, among others and where appropriate, voting information and registration, polling stations, voting booths and devices and ballot papers; recommends to implement appropriate arrangements tailored to national voting procedures to facilitate the vote of citizens with disabilities such as the

possibility to choose polling stations, closed polling stations in key locations, and the use of assistive technologies, formats and techniques like Braille, large print, audio-based information, tactile stencils, easy to read information and sign language communication; calls on Member States to allow persons with disabilities to be assisted in voting by a person of their own choice, where necessary and at their request;

32. Calls on Member States to introduce common requirements allowing all citizens of the Union living or working in a third country to be granted the right to cast their vote in elections to the European Parliament;
33. Believes that the introduction of postal voting is needed for voters who are unable to go to the polling stations on Election day, and that this could make the conduct of European elections more efficient and more appealing for voters in specific or exceptional circumstances; calls on Member States to consider the possible introduction of complementary enhancing tools such as advance physical voting and proxy voting, as well as electronic and online voting, in accordance with their own national traditions, taking into account the Council of Europe's recommendations in those areas and with appropriate safeguards to ensure the reliability, the integrity, the secrecy of the vote, the accessibility for persons with disabilities, transparency in the design and deployment of electronic and internet systems, the possibility for manual or electronic recounts without compromising the secrecy of the vote, and the protection of personal data in accordance with applicable Union law;
34. Believes that establishing a common European voting day would create a more coherent pan-European election and therefore suggests fixing 9 May as the European Election day, regardless of the day of the week on which it falls, with the possibility of that day becoming a public holiday; considers it important that the first official projections of the electoral results are announced simultaneously in all Member States on the election day at 21:00 hours CET;
35. Considers it important to ensure that, following each election, an implementation report is drawn up with the aim of evaluating the functioning of the European elections as well as suggesting improvements, if needed;
36. Suggests a reform of the Treaties to make the office of member of the European Commission and the office of Member of the European Parliament compatible in the period between the constitution of the Parliament and the election of the Commission;
37. Calls for a reform of the Treaties, and in particular of Article 223 TFEU on the provisions necessary for the election of the Members of the European Parliament by direct universal suffrage, moving from Council's unanimity and national ratifications to qualified majority decision-making in the Council;
38. Adopts the annexed proposal and submits it to the Council;
39. Instructs its President to forward this legislative resolution as well as the annexed proposal to the European Council, the Council, the Commission and the parliaments and governments of the Member States.

## ANNEX TO THE LEGISLATIVE RESOLUTION

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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 223(1) thereof,

Having regard to the proposal from the European Parliament,

After transmission of the draft legislative act to the national parliaments,

Having regard to the consent of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The Act concerning the election of the members of the European Parliament by direct universal suffrage<sup>1</sup> ('the Electoral Act'), annexed to Council Decision 76/787/ECSC, EEC, Euratom<sup>2</sup>, entered into force on 1 July 1978 and was subsequently amended by Council Decision 2002/772/EC, Euratom<sup>3</sup> and Council Decision (EU, Euratom) 2018/994<sup>4</sup>.
- (2) According to Article 223(1) of the Treaty on the Functioning of the European Union

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<sup>1</sup> OJ L 278, 8.10.1976, p. 5.

<sup>2</sup> Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ L 278, 8.10.1976, p. 1).

<sup>3</sup> Council Decision 2002/772/EC, Euratom of 25 June 2002 and 23 September 2002 amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Decision 76/787/ECSC, EEC, Euratom (OJ L 283, 21.10.2002, p. 1).

<sup>4</sup> Council Decision (EU, Euratom) 2018/994 of 13 July 2018 amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ L 178, 16.7.2018, p. 1), not in force.

(TFEU), the provisions necessary for the election of the Members of the European Parliament by direct universal suffrage are laid down by the Council acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament upon a proposal drawn up by the European Parliament.

- (3) Article 8 TFEU establishes the principle of gender mainstreaming by which the Union should aim to eliminate gender inequalities and to promote gender equality in all its activities.
- (4) The Treaty of Lisbon has not only conferred on the European Parliament the power of initiative regarding the provisions on the election of its Members, but has also changed the nature of the mandate of the Members of the European Parliament, making them direct representatives of the citizens of the Union. These constitute fundamental changes that should be reflected in a modernised European electoral law by inserting new elements that aim to enhance democratic legitimacy and to more accurately reflect the breadth of the role and competences of the European Parliament.
- (5) In spite of the provisions of the Electoral Act, elections to the European Parliament are largely organised in accordance with national rules, which differ considerably across Member States, resulting in a range of different electoral systems. Elections to the European Parliament take place on different days, and votes are cast for national parties with national candidates on the basis of national programmes. Approximation of those different electoral systems through the adoption of a more unified European electoral law based on clear common principles and rules would ensure equality for all citizens of the Union, and would strengthen the European public sphere.
- (6) Electoral thresholds are part of the political system in many Member States and contribute to the development of stable government and opposition dynamics within Parliaments. In order to safeguard fair political competition, such thresholds should not exceed 5% .
- (7) Electoral thresholds should not affect the chances of recognised national and linguistic minorities to participate in the political life of the Union and to be represented in the European Parliament. Recognised national or linguistic minorities should benefit from exemptions from any thresholds that are provided for at national level. Exemptions from national thresholds should also apply to political parties or associations of voters running in European elections in a quarter of Member States that include in their ballot papers the names and logos of the European entities to which they are affiliated.
- (8) According to Article 17(7) of the Treaty on European Union (TEU), the candidate for President of the Commission is to be proposed by the European Council, taking into account the European elections, and is then to be elected by the European Parliament. In order to give that right its appropriate expression, the European public sphere should be developed in such a way that all European voters are allowed to indicate their preferred candidate for the President of the Commission. For this to happen, the lead candidates nominated by European political parties, by European associations of voters or by other

European electoral entities, need to be able to stand behind a common electoral programme in all Member States. With a view to securing a majority within the Parliament ahead of the appointment of the Commission, interested parliamentary groups should establish a practice of concluding “legislature agreements” ensuring a political follow-up of the European elections. Through a process that should be formalised on the basis of a political agreement between the European political entities, the lead candidate whose European political entity has received the overall highest number of seats should be tasked first with forming a coalition majority in the newly elected Parliament as regards the nomination of a candidate for President of the Commission. In the event that a coalition majority cannot be reached, the task should be assigned to the next lead candidate. In order to inform the nomination process, the President of the European Council should consult the said leaders of the European political entities and parliamentary groups. The lead candidate process could be formalised by a political agreement between the European political entities and by an Interinstitutional Agreement between Parliament and European Council.

- (9) A Union-wide constituency, in which lists are headed by each political family’s candidate for President of the Commission, should be created in addition to the national constituencies, in order to enhance the democratic and pan-European dimension of the European elections. That Union-wide constituency should be subject to detailed and clear rules that ensure that the list of candidates respects the principles of gender equality and geographical proportionality and representativeness, and in particular that the interests of small and medium-sized Member States are fully taken into account.
- (10) European political parties, European associations of voters and other European electoral entities have a key role to play in fostering a truly European political debate. According to Article 10(4) TEU, “[p]olitical parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union”. European political parties, European associations of voters and other European electoral entities should therefore play a more central role in the European elections’ process. They should therefore be given the possibility of fully participating in European election campaigns, and of tabling Union-wide lists, so that they become known by and more visible to electors, both on ballot papers and in campaign materials and publications.
- (11) The conditions for the selection of candidates and for submitting candidacies should be reasonable, fair, democratic, proportionate and should respect the principles laid down by the Code of Good Practice in Electoral Matters of the Council of Europe’s European Commission for Democracy through Law (the Venice Commission). Furthermore, in the European democracy action plan<sup>1</sup>, the Commission has committed itself to promoting access to democratic participation, which entails inclusiveness and equality in democratic participation, as well as gender balance in politics and decision-making.

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European democracy action plan (COM(2020)0790).



In its 2020-2025 gender equality strategy<sup>1</sup>, the Commission stated that “equal opportunity in participation is essential for representative democracy at all levels”. Gender equality as well as democratic and transparent procedures and informed decisions for the selection of candidates to the elections to the European Parliament, including the lead candidate, are key elements for ensuring a level playing field for all European electoral entities and for reinforcing representativeness and democracy. For reasons of equality, those principles should apply to all lists of candidates in the elections to the European Parliament both in the national constituencies and in the Union-wide constituency.

- (12) Transparency of the electoral process and access to reliable and timely information on voters and on candidates are important for ensuring the reliability of the electoral process, for raising European political awareness and for securing a strong election turnout. It is important to facilitate the exchange of information between Member States on voters in order to avoid double voting. Moreover, citizens of the Union should be informed about the candidates standing in the elections to the European Parliament, and where applicable about the affiliation of national political parties to a European political party, well in advance of those elections. It is therefore necessary to establish a European electoral roll and mandatory time-limits for the establishment of the electoral roll at European and national level and of the lists of candidates.
- (13) A European Electoral Authority exercising an independent mandate and composed of members with the necessary expertise and experience is essential in order to manage the Union-wide constituency. The key tasks of the European Electoral Authority should include monitoring the implementation of this Regulation and resolving disputes in respect of the common standards of the European electoral law; managing the European electoral roll; proclaiming the electoral results; and ensuring an efficient exchange of information and best practices between national bodies.
- (14) In order to ensure that the European electoral entities have the sufficient funds to convey their messages and their political programmes to the Union citizens, the electoral campaign in the Union-wide constituency should receive adequate funding.
- (15) In order to encourage voter participation in elections to the European Parliament, Member States should provide for postal voting and could also allow advance physical and proxy voting. Taking into account the Council recommendations in that respect, and in order to take full advantage of the possibilities offered by technological developments, Member States could also permit electronic and internet voting, while ensuring the accessibility of the electronic and internet systems, the reliability of the results through a possibility for recounts, the secrecy of the vote, the protection of personal data, in accordance with applicable Union law, and full transparency in the design and deployment of the electronic and internet systems; as well as ensuring the accessibility for persons with disabilities and for all citizens.

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “A Union of Equality: Gender Equality Strategy 2020-2025” (COM(2020)0152).

- (16) Citizens of the Union have the right to participate in its democratic life, in particular by voting or standing as candidates in elections to the European Parliament. The right to vote and to stand as candidate, and access to information and voting should also be ensured on an equal basis for all citizens, including for persons with disabilities. Member States should take the measures necessary to allow all Union citizens to exercise the right to vote in elections to the European Parliament, including those who are residing or working in countries outside the Union, who are without a permanent residence, who are experiencing homelessness, who are serving a prison sentence in the Union or those who are living in closed residential settings such as hospitals, psychiatric institutions and other healthcare settings, retirement and nursing homes for old people or residential settings for persons with disabilities. In particular, Member States should introduce appropriate measures, so that people living in closed residential settings are able to exercise their right to vote. The special needs of persons with disabilities should be taken into account when ensuring access to information, voting materials and voting facilities.
- (17) The minimum age for the exercise of the right to vote and the right to stand as a candidate varies across the 27 Member States from 16 to 18. A single harmonised age for voting and for standing as a candidate should be introduced across the Union in order to ensure equality and to avoid discrimination in access to those most fundamental civic and political rights. Without prejudice to existing constitutional orders establishing a minimum voting age at 18 or 17 years of age, the minimum age for voting should be set at 16. The minimum age for standing as a candidate should be set at 18. Regardless of their legal capacity, all the persons with disabilities, should enjoy political rights on an equal basis with others.
- (18) The deadlines for tabling the lists of candidates for elections to the European Parliament and for establishing the electoral rolls before European elections vary greatly between Member States. In order to ensure that candidates and voters across the Union have the same time available for campaigning or for reflection, and to facilitate the exchange of information between Member States on voters, the deadlines for tabling the lists of candidates and for establishing the electoral rolls should be the same throughout the Union.
- (19) In order to ensure that European political parties, European associations of voters and other European electoral entities are sufficiently visible, clear and transparent rules on campaigning and on official electoral materials are needed. Such rules should enable European political parties, European associations of voters and other European electoral entities to use any forms of public communication and electoral campaign materials. Such rules should enable European political parties, European associations of voters and other European electoral entities to indicate their affiliations in any forms of public communication, electoral campaign materials and official electoral materials such as ballot papers. Member States should ensure that European political parties, European association of voters and other European electoral entities are given equal treatment and opportunities regarding the electoral campaign related to the Union-wide constituency.
- (20) The 1976 Electoral act established a common electoral period, giving the Member States the power to set the exact date and the time for the elections within that period. A

truly pan-European election requires a common European voting day. The elections to the European Parliament should be held on 9 May, Europe Day, marking the anniversary of the Schuman Declaration of 9 May 1950. The election results should be proclaimed by the European Electoral Authority and published in the *Official Journal of the European Union*.

- (21) In the event that a member of the European Parliament elected from the national constituencies, resigns, dies, or has his or her mandate withdrawn, the resulting vacancy should be filled in accordance with national legislation. Vacancies of seats of Members of the European Parliament elected in the Union-wide constituency should be filled by the next candidate in the relevant lists. Temporary replacements in cases of maternity, paternity, parental leave and severe illness of Members of the European Parliament should also be possible.
- (22) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the technical requirements, including the format and data to be provided, for the establishment of the European electoral roll. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>.
- (23) Since the objective of this Regulation, namely to establish the provisions necessary for the election of Members of the European Parliament by direct universal suffrage in accordance with a uniform electoral procedure as regards the Union-wide constituency and with principles common to all Member States, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

HAS ADOPTED THIS REGULATION:

#### Article 1

##### **Subject matter**

This Regulation establishes the provisions necessary for the election of Members of the European Parliament by direct universal suffrage in accordance with a uniform electoral procedure as regards the Union-wide constituency referred to in Article 15 and with principles common to all Member States.

#### Article 2

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<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

## Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘political party’ means an association of citizens which pursues political objectives and which is either recognised by, or established in accordance with, the legal order of at least one Member State in accordance with Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council<sup>1</sup>, including those which intend to form or to join a European coalition of national political parties and/or national associations of voters in order to table a list of candidates for, and campaign in, the Union-wide constituency;
- (2) ‘association of voters’ means an association of citizens which pursues political objectives and which, rather than being established as a political party, is registered as an association of citizens in accordance with applicable national provisions, including those which intend to form or to join a European coalition of national political parties and/or associations of voters in order to table a list of candidates for, and campaign in, the Union-wide constituency;
- (3) ‘European coalition of national political parties and/or associations of voters’ means an electoral alliance of national political parties and/or national associations of voters which are registered in at least one quarter of the Member States, where necessary rounded up to the nearest whole number, that tables a list of candidates to, and campaigns in, the Union-wide constituency;
- (4) ‘European political party’ means a political alliance of national political parties which pursues political objectives and is registered with the Authority for European political parties and European political foundations in accordance with Regulation (EU, Euratom) No 1141/2014 for the purposes of tabling a list of candidates for, and campaigning in, the Union-wide constituency;
- (5) ‘European association of voters’ means a transnational association of citizens registered in at least a quarter of the Member States, representing at least a number equal to 0.02% of the voting population in the relevant Member States, which pursues political objectives, but is not established as a European political party, and is recognised for the purposes of tabling a list of candidates for, and campaigning in, the Union-wide constituency;
- (6) ‘European electoral coalition’ means an electoral alliance of two or more European political parties and/or European associations of voters that fields a list of candidates for and campaign in the Union-wide constituency which may be joined by national political parties and/or national associations of voters, provided that they are not affiliated to a European political party;

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<sup>1</sup> Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L 317, 4.11.2014, p. 1).

- (7) ‘Political alliance’ means structured cooperation between political parties and/or citizens in accordance with Regulation (EU, Euratom) No 1141/2014;
- (8) ‘European electoral entity’ means a European coalition of national political parties and/or associations of voters, a European political party, a European association of voters, a European electoral coalition or a political alliance;
- (9) ‘Union-wide list’ means the list of candidates fielded in the Union-wide constituency by a European electoral entity.

### Article 3

#### **National provisions**

The electoral procedure for the election of the Members of the European Parliament shall be governed by this Regulation. Matters not covered by this Regulation shall be governed in each Member State by its national provisions.

Those national provisions shall not affect the proportional nature of the voting system.

They shall in any event ensure respect for democratic standards, leading to democratic and proportionate requirements for registering a political party or an association of voters and for submitting a list of candidates for the national constituencies and the Union-wide constituency.

### Article 4

#### **The right to vote**

1. Every Union citizen from 16 years of age, including persons with disabilities regardless of their legal capacity, shall have the right to vote in elections to the European Parliament without prejudice to existing constitutional orders establishing a minimum voting age of 18 or 17 years of age.
2. No Union citizen entitled to vote shall vote more than once in any election of Members of the European Parliament in the national constituencies or in the Union-wide constituency.
3. Member States shall take measures necessary to ensure that double voting in elections to the European Parliament is subject to effective, proportionate and dissuasive penalties.

### Article 5

#### **The right to stand as a candidate**

1. Every Union citizen from 18 years of age shall have the right to stand as a candidate for the elections to the European Parliament in either a national constituency or in the Union-wide constituency, or in both.

2. No Union citizen entitled to stand as a candidate shall stand as a candidate in more than one national constituency nor appear on more than one list for a national constituency or on more than one Union-wide list in any election to the European Parliament.

## Article 6

### **Exercise of the right to vote**

1. Member States shall ensure that all Union citizens, including those living or working in a third country, those without a permanent residence, those living in closed residential settings, those experiencing homelessness or those serving a prison sentence in the Union, are able to exercise their right to vote in elections to the European Parliament.

2. With regard to those citizens serving a prison sentence in the Union, the paragraph 1 shall be without prejudice to national law or court decisions handed down in accordance with national law.

## Article 7

### **Accessibility**

1. Member States shall ensure that all citizens, including persons with disabilities, have equal access to relevant materials, to voting facilities and to polling stations.

2. Based on their national voting systems, Member States shall put in place appropriate arrangements with the aim of facilitating the exercise of the right to vote by persons with disabilities, independently and in secret.

3. Member States shall ensure that persons with disabilities receive, at their request, assistance in voting by a person of their choice.

## Article 8

### **Postal voting**

1. Member States shall provide for postal voting in elections to the European Parliament, including for citizens living in a third country, and shall adopt measures that ensure that postal voting is accessible, in particular for persons with disabilities. Member States shall adopt all necessary measures to ensure the reliability and secrecy of the vote, and the protection of personal data in accordance with applicable Union law.

2. Member States may provide additional possibilities of voting by way of advance physical voting, proxy voting and voting by electronic and internet systems.

In the event of electronic, internet and proxy voting, Member States shall adopt all necessary measures to ensure the reliability, the integrity, the secrecy of the vote, transparency in the design and deployment of electronic and internet systems, the possibility for manual or electronic recounts without compromising the secrecy of the vote and the protection of personal data in accordance with applicable Union law.

## Article 9

### **Establishment of the national electoral rolls and European electoral roll**

1. For the purpose of detecting and avoiding double voting in the elections to the European Parliament, the deadline for the establishment of the electoral roll in each Member State shall be no later than fourteen weeks before the Election day as referred to in Article 19(1). Errors in the electoral roll may be corrected until Election day.
2. For the purpose of establishing the European electoral roll, the competent national authorities shall provide the European Electoral Authority with all necessary data in accordance with Article 18. The criteria to be registered in the national electoral roll shall be regulated by national provisions.
3. The Commission shall adopt implementing acts laying down the technical requirements, including the format and data to be provided for the establishment of the European electoral roll for the implementation of paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 29.

## Article 10

### **Principles of selection of candidates**

1. All political parties, associations of voters, electoral alliances and European electoral entities participating in elections to the European Parliament shall observe democratic procedures, transparency and gender equality, through measures that aim to ensure that all eligible persons have an equal opportunity to be elected, and a composition of the European Parliament that reflects the diversity of the European Union, when selecting their candidates for election to the European Parliament. Gender equality shall be reached depending on the Member States electoral systems and in any event in the Union-wide constituency by the use of zipped lists or quotas, without infringing the rights of non-binary people.
2. A member of a political party, an association of voters or a European electoral entity may file a reasoned complaint of non-compliance with the democratic procedures, transparency and gender equality criteria laid down in this Article with the responsible national authority or the European Electoral Authority.

## Article 11

## **Tabling of the lists of candidates**

1. The deadline for tabling the lists of candidates for elections to the European Parliament shall be twelve weeks before the Election day referred to in Article 19(1).
2. No later than 12 weeks before the Election day, the European electoral entities shall provide the European Electoral Authority with a document establishing that all the candidates consent to their inclusion in the Union-wide list. That document shall include the candidates' full names and their identity card or passport numbers. It shall be signed by the candidates and shall indicate the date and place of signature.

## Article 12

### **Electoral system**

1. Elections shall be by direct universal suffrage and shall be equal, free and secret. Each voter shall have two votes, one to elect the Members of the European Parliament in the national constituencies and one to elect Members of the European Parliament in the Union-wide constituency.
2. Members of the European Parliament shall be elected as representatives of the Union citizens on the basis of proportional representation, in the national constituencies and in the Union-wide constituency.
3. In the national constituencies, Members of the European Parliament shall be elected using any national system of proportional representation commonly used by the Member States.
4. In the Union-wide constituency, Members of the European Parliament shall be elected using the closed list system.

## Article 13

### **Electoral threshold**

1. Member States may set a minimum threshold for the allocation of seats. At national level, that threshold shall not exceed 5 % of the valid votes cast.
2. For national constituencies, which comprise more than 60 seats a threshold shall be set and shall not be lower than of 3,5 % of the valid votes cast in the constituency concerned.
3. The thresholds referred to in paragraphs 1 and 2 shall be without prejudice to exemptions made in national law for political parties or associations of voters that represent recognised national or linguistic minorities.
4. An exemption from national thresholds set in paragraph 2 shall be made for political parties



or associations of voters, registered in a quarter of Member States and obtaining at least one million votes across the Union, which include in their national ballot paper the single name and logo of the European electoral entity to which they are affiliated, and where appropriate, adapted to the languages of the Member States concerned.

5. There shall be no minimum threshold for the allocation of seats in the Union-wide constituency referred to in Article 15.

## Article 14

### **National constituencies**

In accordance with its specific national situation and without prejudice to Article 15, each Member State may establish single constituencies for elections to the European Parliament or subdivide its electoral area in a different way, without affecting the proportional nature of the voting system in general.

Member States may form single-member constituencies representing linguistic or ethnic minorities, overseas nationals, outermost regions or overseas territories in accordance with national regulations, without affecting the proportional nature of the voting system.

## Article 15

### **Union-wide constituency**

1. There shall be one constituency formed of the entire territory of the European Union from which 28 Members of the European Parliament shall be elected at the first election of Members of the European Parliament following the entry into force of this Regulation.

For elections of Members of the European Parliament thereafter, the size of the Union-wide constituency shall be determined by the European Council Decision establishing the composition of the European Parliament.

2. The election in respect of the Union-wide constituency shall be without prejudice to the Members of the European Parliament elected in each Member State.

3. All European electoral entities in accordance with Article 2 may submit to the European Electoral Authority Union-wide lists.

4. No European electoral entity may submit more than one Union-wide list. National parties and national associations of voters may only support one Union-wide list.

5. The ballots comprising the Union-wide lists shall bear the name and logo of the respective European electoral entity.

6. For candidates living in a third country, the candidate's place of residence for the purposes of drawing up the Union-wide list shall be their last one before leaving the European Union. For candidates born and resident in a third country, the place of residence for the purposes of drawing up the Union-wide list shall correspond to that of the candidate's Member State of nationality.

7. The Union-wide lists shall include a number of candidates equal to the number of mandates referred to in paragraph 1.

8. The Union-wide lists shall be drawn up by the European electoral entities in accordance with the principles as laid down in Article 10(1).

9. In order to ensure geographical balance, the Union-wide lists are divided in sections of three slots. Each of these three slots is to be filled with one candidate coming from each of the three groups of Member States as defined in Annex I and exemplified in Annex II.

10. The order of candidates resident in any of the Member States in each of the three groups of Member States included in Annex I shall vary in each list section of three slots up to the list slot corresponding to the number resulting from dividing the total number of seats by two, where necessary rounding up to the next whole number.

11. The total population of the Member States shall be calculated by the Commission (Eurostat) on the basis of the most recent data provided by the Member States, in accordance with a method established by means of Regulation (EU) No 1260/2013 of the European Parliament and of the Council<sup>1</sup>.

12. The apportionment of seats to the Union-wide lists based on the aggregated results in the Union-wide constituency shall be carried out in accordance with the D'Hondt system, as follows:

(a) the numbers of votes obtained by the candidates are ordered from highest to lowest, in a column;

(b) the number of votes obtained by each candidacy is divided by 1,2,3, etc., up to a number equal to the number of seats corresponding to the constituency, forming a table similar to the one that appears in Annex III. The seats are attributed to the candidates that obtain the highest ratios in the table, attending to a decreasing order;

(c) when two seats corresponding to different candidacies coincide in the list of quotients, the seat is allocated to the list with the highest total number of votes obtained. If there are two candidates with the same number of votes, the first tie is resolved by lottery and the successive ones alternatively.

13. European and national public broadcasters shall provide broadcasting time in proportion

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<sup>1</sup> Regulation (EU) No 1260/2013 of the European Parliament and of the Council of 20 November 2013 on European demographic statistics (OJ L 330, 10.12.2013, p. 39).

to the results of the preceding election to the Union-wide constituency, ensuring minimum broadcasting time for every Union-wide list.

## Article 16

### **Financing of electoral campaigns of European electoral entities**

The provisions of Chapters IV and V of Regulation (EU, Euratom) No 1141/2014 shall apply mutatis mutandis to the financing of the electoral campaigns of European electoral entities.

## Article 17

### **Common provisions related to electoral campaigns**

1. Electoral campaigning shall not start until eight weeks before the Election day.
2. Electoral campaigning consists of asking voters for their votes in an election to the European Parliament by means of print or digital material and other formats of public communication, media advertising, and public events. Electoral campaign materials shall include the logo and a reference to the manifesto or programme of the European electoral entity to which the national party is affiliated.
3. Electoral campaign materials shall be accessible to persons with disabilities.
4. In the national constituencies, the ballot papers used in elections to the European Parliament shall be uniform, give equal visibility to the names, acronyms, symbols and logos, if any, of national political parties and/or national associations of voters, and to those of the European electoral entities when affiliated to any of them, and shall feature the list of names of the candidates and, where appropriate of the substitutes, in the order in which they appear on the relevant electoral lists.
5. 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.
6. Member States shall ensure that European electoral entities are given equal treatment and opportunities as national political parties and national associations of voters regarding the electoral campaign related to the Union-wide constituency.
7. Member States shall implement a European electoral reserve period of 48 hours before the Election day, during which it shall not be permitted to ask electors about their voting intentions.

## Article 18

## **Contact authorities**

1. Each Member State shall designate a contact authority responsible for exchanging, with its counterparts in the other Member States and with the European Electoral Authority established in accordance with Article 28, data on voters necessary for establishing the European electoral roll in accordance with Article 9(2), and on candidates.
2. The contact authority referred to in paragraph 1 shall, in accordance with the applicable Union law concerning the protection of personal data, begin transmitting to those counterparts and to the European Electoral Authority, no later than six weeks before the Election day the data indicated in Articles 9 and 10 of Council Directive 93/109/EC<sup>1</sup> concerning citizens of the Union who have been entered on the national electoral rolls and European electoral roll or are standing as candidates, in a Member State of which they are not nationals.

## Article 19

### **Election day**

1. Elections to the European Parliament shall be held on 9 May of the last year of a parliamentary term, as referred to in Article 20 (the “Election day”).
2. During the opening hours of the polling stations and from half an hour before polling stations open, any political activities at the polling stations or in their proximity shall be prohibited, without prejudice to any activity organised to celebrate Europe Day in the Member States.
3. The elections shall end in all Member States by 21:00 local time on Election day. To take into account the time difference, elections to the European Parliament may be held on 8 May of the last year of a parliamentary term in the Union’s overseas countries and territories.
4. Member States shall not make public the results of their count officially or on a provisional basis until after the close of polling, in accordance with paragraph 3, in the Member State whose electors are the last to vote.
5. Member States may declare Election day a national holiday.

## Article 20

### **Determination and publication of the election results**

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<sup>1</sup> Council 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 Union residing in a Member State of which they are not nationals (OJ L 329, 30.12.1993, p. 34).

1. The election results in the Union-wide constituency and in the national constituencies shall be proclaimed, in that order, by the European Electoral Authority, on the basis of the information provided by the contact authorities.

2. The official election results shall be published in the *Official Journal of the European Union*.

#### Article 21

### **Parliamentary term and mandate**

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 (the “parliamentary term”).

2. The term of office of each Member of the European Parliament shall begin and end in accordance with the parliamentary term (the “mandate”).

#### Article 22

### **Convening of Parliament**

In addition to the obligation set out in Article 229 of the Treaty on the Functioning of the European Union, the European Parliament shall meet, without requiring to be convened, on the first Tuesday after expiry of an interval of one month from Election day.

#### Article 23

### **Verification of credentials**

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 proclaimed by the European Electoral Authority.

## Article 24

### **Incompatibilities**

1. The office of Member of the European Parliament shall be incompatible with the following offices:

- member of the government of a Member State,
- member of a national or regional parliament or assembly vested with legislative powers,
- member of the European Commission,
- Judge, Advocate-General or Registrar of the Court of Justice of the European Union,
- member of the Executive Board of the European Central Bank,
- member of the Court of Auditors,
- European Ombudsman,
- member of the Economic and Social Committee,
- member of the Committee of the Regions,
- member of committees or other bodies set up pursuant to the Treaty on the Functioning of the European Union or the Treaty establishing the European Atomic Energy Community for the purposes of managing the 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. Each Member State may adopt additional national rules concerning incompatibility with the office of Member of the European Parliament.

3. Members of the European Parliament to whom paragraphs 1 and 2 become applicable in the course of the parliamentary term, shall be replaced in accordance with Article 27.

## Article 25

## **External parliamentary activities**

Upon election, Members of the European Parliament shall designate the municipality and, where applicable, region, within their Member State of residence, from which they will conduct external parliamentary activities.

### Article 26

## **Personal and independent vote**

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 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, from the moment when their election to the European Parliament is officially declared.

### Article 27

## **Vacancies**

1. A seat shall fall vacant when the mandate of a Member of the European Parliament ends as a result of that Member's resignation or death, or due to the withdrawal of his or her mandate.
2. In the event of death, resignation, or withdrawal of the mandate of a Member of the European Parliament elected in the Union-wide constituency, the President of the European Parliament shall immediately inform the European Electoral Authority.

The vacancy shall be filled by the next candidate in the list of candidates in which the Member who has died, resigned or withdrawn was originally elected.

3. Subject to the other provisions of this Regulation, each Member State shall lay down appropriate procedures for filling any seat which falls vacant during the parliamentary term, for the remainder of that period.
4. 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.
5. 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 and the European Electoral Authority thereof.

6. Where Parliament declares a vacancy of a seat of a member elected from the Union-wide constituency, the President shall inform the European Electoral Authority thereof and invite it to fill the seat for the remainder of the mandate without delay.

Vacancies of seats of members of the European Parliament elected from the Union-wide constituency shall be filled by the next candidate in the relevant list, according to the order of precedence.

7. The Parliament may, at the request of the Member concerned, and with the agreement of the Member State concerned or the European Electoral Authority, propose a temporary replacement of the Member concerned in case of maternity, paternity or parental leave or in case of leave due to a severe illness.

When a seat falls temporarily vacant for any of the reasons set out in the first subparagraph the Member concerned shall be temporarily replaced for a period of sixteen weeks by the next candidate on the relevant list, who may decide whether or not to fill the vacancy. A refusal to fill the vacancy does not entail the loss of the position in the relevant list for future vacancies. The sixteen-week period may be renewed.

## Article 28

### **European Electoral Authority**

1. A European Electoral Authority (the “European Electoral Authority”) is hereby established for the purpose of :

(a) ensuring the correct implementation of this Regulation as well as conducting and monitoring the electoral process in the Union-wide constituency;

(b) defining the procedure applicable to complaints under Article 10(2) as regards the Union-wide constituency;

(c) exercising all the functions related to the electoral process in the Union-wide constituency and liaise with the contact authorities referred to in Article 18;

(d) verifying that the European electoral entities meet the conditions for submitting Union-wide lists in accordance with Article 15;

(e) managing the European electoral roll established in Article 9;

(f) proclaiming the electoral results in accordance with Article 20 ;

(g) ruling on any disputes which may arise out of the provisions of this Regulation other than



those arising out of the national provisions to which this Regulation refers.

The European Electoral Authority may also provide assistance in case of difficulties related to the interpretation of the lists submitted by the national authorities.

2. The European Electoral Authority shall be independent and shall exercise its functions in full compliance with this Regulation.

3. The European Electoral Authority shall proclaim the Union-wide lists eleven weeks before Election day.

It shall establish and manage a Register of the different Union-wide lists submitted by the European electoral entities. The information on the Register shall be made public.

In its decisions, the European Electoral Authority shall give full consideration to the fundamental rights to vote and to stand as a candidate.

4. Each Member State shall appoint one member of the European Electoral Authority, selected from professors of law or political science and other experts in electoral systems on the basis of their professional qualities and respecting gender balance. The members of the European Electoral Authority shall elect its president, vice-president, and secretary by simple majority, in separate votes. The European Electoral Authority shall endeavour to take decisions by consensus. If it is not possible to take a decision by consensus, the European Electoral Authority shall decide by a simple majority vote.

All members of the European Electoral Authority shall be independent in the performance of their duties. They shall neither seek nor take instructions from any institution or government or from any other body, office or agency. They shall not be members or former members of the European Parliament, national parliaments or national governments. In addition, they shall not hold any electoral mandate, or be officials or other servants of any Union institution or of any European political party or European association of voters, or of any European political foundation.

The members of the European Electoral Authority shall be appointed for a five-year term renewable once.

5. The European Electoral Authority shall be represented by its president who shall ensure the implementation of all decisions of the European Electoral Authority on its behalf.

The president of the European Electoral Authority shall refrain from any act which is incompatible with the nature of his or her duties.

If a member of the European Electoral Authority, including the president no longer fulfils the conditions required for the performance of his or her duties, he or she may be dismissed by a vote supported by at least three fifths of the members of the European Electoral Authority on the basis of a report setting out a reasoned proposal of dismissal.

The five-year term of the European Electoral Authority shall begin two and a half years after the beginning of the parliamentary term. The European Electoral Authority's first mandate shall begin as soon as possible after the entry into force of this Regulation.

A vacancy in the European Electoral Authority caused by resignation, retirement, dismissal or death shall be filled in accordance with the same procedure as that applicable to the initial appointment.

6. The European Electoral Authority shall enjoy legal personality and shall have the necessary offices, staff, services and administrative support facilities to carry out its functions.

7. The European Electoral Authority shall submit a report to the European Parliament on the organisation of the European elections and on the implementation of this Regulation and the attainment of its aims, within nine months after the European elections.

8. The costs of the European Electoral Authority, including the remuneration of its members, shall be financed by appropriations from the general budget of the Union.

Budget appropriations shall be sufficient to ensure the full and independent operation of the European Electoral Authority. A draft budgetary plan for the European Electoral Authority shall be submitted to the European Parliament by its president, and shall be made public. The European Parliament shall delegate the duties of Authorising Officer with respect to those appropriations to the president of the European Electoral Authority.

## Article 29

### **Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

## Article 30

### **Repeal**

1. The Act concerning the election of the members of the European Parliament by direct

universal suffrage, as well as Council Decision 76/787/ECSC, EEC, Euratom laying down that Act, is repealed.

2. References to the repealed Act shall be construed as references to this Regulation.

#### Article 31

#### **Review Clause**

No later than one year after each European election, the European Parliament shall, after consultation with the European Electoral Authority, present a report on the overall functioning of this Regulation accompanied, if appropriate, by a legislative proposal to amend this Regulation.

#### Article 32

#### **Entry into force**

1. This Regulation shall take effect on the first day of the month following that of its approval by the Member States, in accordance with their respective constitutional requirements.

2. Member States shall notify the General Secretariat of the Council of the completion of their national procedures.

**ANNEX I. TABLE - 27 EU MEMBER STATES BY POPULATION CATEGORIES**

Categories	Member State	Total population
<b>Group A (37,9 million – 83,1 million)</b>	<b>Germany</b>	83 166 711
	<b>France</b>	67 320 216
	<b>Italy</b>	59 641 488
	<b>Spain</b>	47 332 614
	<b>Poland</b>	37 958 138
<b>Group B (6,9 million – 19,3 million)</b>	<b>Romania</b>	19 328 838
	<b>Netherlands</b>	17 407 585
	<b>Belgium</b>	11 522 440
	<b>Greece</b>	10 718 565
	<b>Czechia</b>	10 693 939
	<b>Sweden</b>	10 327 589
	<b>Portugal</b>	10 295 909
	<b>Hungary</b>	9 769 526
	<b>Austria</b>	8 901 064
	<b>Bulgaria</b>	6 951 482
<b>Group C (0,5 million – 5,8 million)</b>	<b>Denmark</b>	5 822 763
	<b>Finland</b>	5 525 292
	<b>Slovakia</b>	5 457 873
	<b>Ireland</b>	4 964 440
	<b>Croatia</b>	4 058 165
	<b>Lithuania</b>	2 794 090
	<b>Slovenia</b>	2 095 861
	<b>Latvia</b>	1 907 675
	<b>Estonia</b>	1 328 976
	<b>Cyprus</b>	888 005
	<b>Luxembourg</b>	626 108
	<b>Malta</b>	514 564

Source: <https://ec.europa.eu/eurostat/databrowser/view/tps00001/default/table?lang=en>

## ANNEX II

### Practical example of Union-wide list using the three categories group with 28 seats.

A1, A2, A3, A4, A5, B1, B2, B3, B4, B5, B7, B8, B9, B10, C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, C12 are examples of candidates from the Member States by population category

<b>Example of Union-wide list</b>		
Sections	Slot number	Candidates from
Section 1	1	A1
	2	B7
	3	C7
Section 2	4	B10
	5	C5
	6	A3
Section 3	7	A2
	8	C3
	9	B7
Section 4	10	B5
	11	C3
	12	A4
Section 5	13	A5
	14	C12
	15	B9
Section 6	16	A4
	17	A2
	18	B2
Section 7	19	B3
	20	A1
	21	B8
Section 8	22	C1
	23	C2
	24	B4
Section 9	25	A5
	26	C8
	27	B1
Section 10	28	B7

## ANNEX III

### Practical example - D'Hondt Method

Practical example: 1 000 000 valid votes cast in a constituency that elects 5 Members.

A (350 000 votes), B (300 000 votes), C (150 000 votes), D (100 000 votes), E (70 000 votes), F (30 000 votes)

Division	1	2	3	4	5
A	350 000	175 000	116 666	87 500	70 000
B	300 000	150 000	100 000	75 000	60 000
C	150 000	75 000	50 000	37 500	30 000
D	100 000	50 000	33 333	25 000	20 000
E	70 000	35 000	23 333	17 500	14 000
F	30 000	15 000	10 000	7 500	6 000

In consequence, A obtains 2 seats, B obtains 2 seats and C obtains 1 seat.