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Committee

on a draft uniform electoral procedure for the
election of Members of the European Parliament

PART B : EXPLANATORY STATEMENT

PART C : DOCUMENTATION

Rapporteur: Mr J. SEITLINGER

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EXPLANATORY STATEMENTI. INTRODUCTION

1. The Political Affairs Committee suggests that the first step should be to submit to the Council a proposal for a uniform procedure as regards the electoral system, the right to vote, the right to stand for election, vacant seats and election day. An electoral procedure obviously comprises many more aspects that could be harmonized.

In an attempt to settle the most important points first and avoid unnecessary complications, the committee has opted for the step-by-step approach.

2. It discussed the various systems in force in the Member States for elections to national parliaments and the European Parliament. A summary of the main features of the laws governing the first elections to the European Parliament is attached as Annex 1. The committee also discussed other electoral systems particularly those used for the Italian Senate, the German Bundestag and the Irish elections.

The committee came out in favour of finding a system that incorporated both the principle of proportional representation of the political forces and features of the personal vote system.

II. CRITERIA FOR CHOOSING THE COMMUNITY SYSTEM

3. The Treaties of Rome and Paris provide that:

'The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States. The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements' (Articles 21 of the ECSC Treaty, 138 of the EEC Treaty and 108 of the EAEC Treaty). Article 7(1) of the Act of 20 September 1976 confirms that it is up to the European Parliament to propose a uniform procedure.

The Treaties, however, do not define what is meant by 'uniform procedure'. But it is generally accepted today that 'uniform' does not mean 'identical' and that the definitive uniform procedure can be arrived at in several stages once the final objectives have been clearly defined.

In our opinion, the uniform system ought to take the greatest possible account of various general considerations to be defined:

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- (a) the electoral system should guarantee maximum uniformity so as to ensure that equal weight attaches to each vote. At the same time, room must be allowed for national peculiarities;
 - (b) the electoral system should resemble as far as possible the models tried in the individual States and trusted by their citizens and should not neglect the scales of values at the core of the political life of the Member States;
 - (c) the electoral system should help to create direct contact between the electorate and their elected representatives;
 - (d) the electoral system should guarantee the main political forces representation in the European Parliament;
 - (e) the electoral system should guarantee each Community citizen residing in the Community the right to vote and stand for election;

The committee should consider the advisability of calling into question the present system of allocating seats which seems to be generally accepted. For the sake of effectiveness and in order to adhere to the timetable, we propose to deal with the two problems separately.

III. FUNDAMENTALS

4. First of all it should be noted that the term 'electoral system' is here taken to mean the way in which the results of an election determine the composition of a parliament.

There are two basic electoral systems: the majority system and proportional representation.

Under the majority system, the votes cast for a candidate who has not been elected are not taken into consideration when seats are allocated.

Under proportional representation, on the other hand, all the votes are in principle taken into consideration when the seats are allocated proportionally, except when a threshold applies (see Chapter V).

5. In practice, most electoral systems incorporate features of both proportional representation and the majority system.

The United Kingdom (excluding Northern Ireland) employed a majority system for the elections to the European Parliament, whereas Ireland used a special system closely related to the majority system. The other eight Member States used systems of proportional representation although there were nevertheless considerable differences between them.

The differences chiefly arise from the use of the 'list system'. There are three types of list:

- (a) the 'rigid' list system in which the elector cannot change the order of candidates (Germany and France in 1979 and Greece in 1981);
- (b) the 'loose' or 'preferential' list system in which the order of candidates can be altered (Belgium, Denmark, Italy and the Netherlands 1979);
- (c) the 'open' list system (vote-splitting) in which the elector votes for any list or candidate he desires (Luxembourg in 1979).

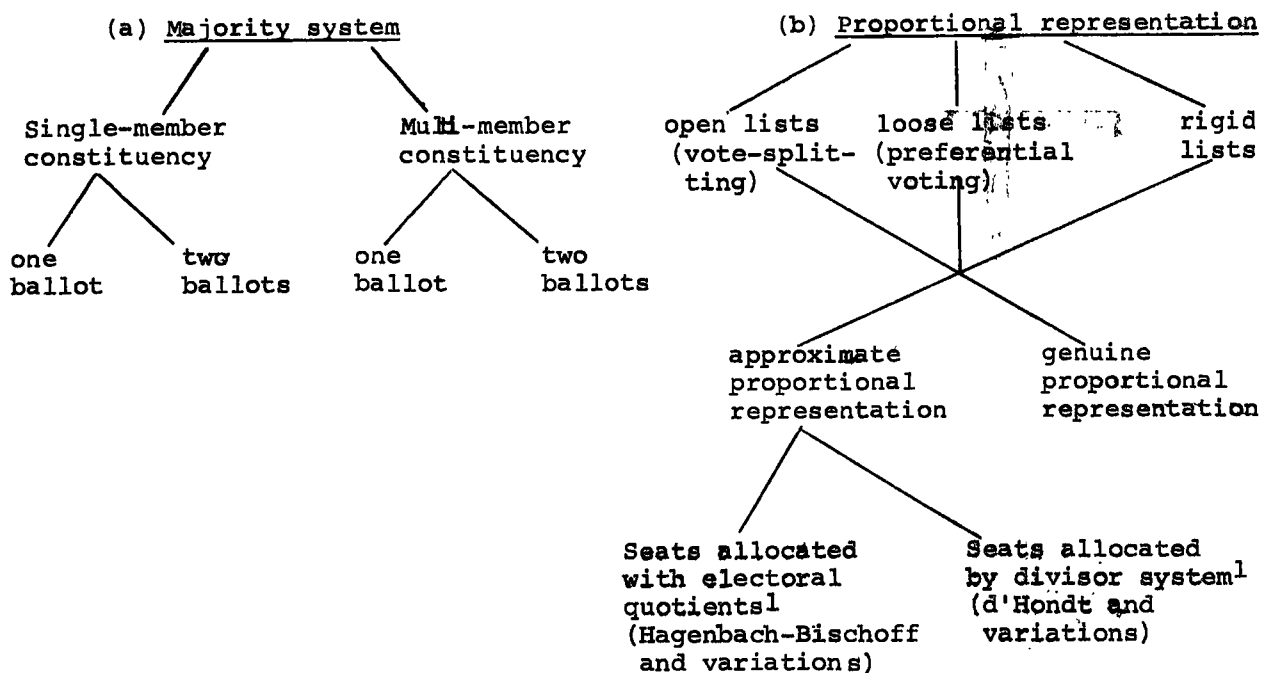
6. It would be possible in an election to use the system of proportional representation as a basis and include elements of the majority system.

This could be done as follows:

- multi-member constituencies would be formed, their number and geographical area being determined by the Member States;
- the votes secured by the lists of candidates in the constituencies would be added together at national level and the seats allocated to each list according to the d'Hondt system;
- the seats allocated to the lists would then be distributed between these lists at constituency level on the basis of the number of votes obtained in accordance with the d'Hondt system.

7. The diagram below sets out the theoretically conceivable models:

Types of electoral systems



(c) combination of (a) and (b)

¹ For details see Annex 2

IV. PROPOSED FEATURES OF A UNIFORM ELECTORAL SYSTEM

8. Any attempt to apply the principles set out in paragraph 6 will show that the draft electoral system can neither be pure proportional representation nor the majority system since the first would greatly disturb the United Kingdom's political traditions and the second the political practices of the other Member States.

Both the Subcommittee on a Uniform Electoral Procedure and the Political Affairs Committee were looking for a hybrid electoral system which would combine certain advantages of the personal vote with those of proportional representation. With this in view, the subcommittee proposed two alternative hybrid systems to the Political Affairs Committee. Alternative A was based on the system used for elections to the German Bundestag (see point 10) and alternative B was similar to the electoral systems used by several Member States for the June 1979 European elections.

After detailed discussion, the Political Affairs Committee decided in June 1981 in favour of alternative A, (the 'Bundestag' system) and asked the rapporteur to draw up a draft act accordingly. However, subsequent discussions in committee revealed the difficulty of finding a solution to the problem of over-representation, given that the number of seats in the European Parliament had been laid down by the Council in 1976 and that the Political Affairs Committee had always considered inappropriate any proposals to alter the distribution of seats among the Member States.

Some members of the Political Affairs Committee also felt that introduction of the 'Bundestag' electoral system in the small Member States might cause major problems, particularly by increasing the danger of over-representation, with regard to the number of seats per country.

The Political Affairs Committee therefore decided ultimately in favour of the rapporteur's alternative B with some changes, and took a decision of principle to this effect in December 1981. This decision was confirmed in January 1982 with the adoption of the mixed system of multi-member constituencies with allocation of seats by the d'Hondt system.

Throughout these delicate and prolonged discussions the rapporteur endeavoured to retain elements of the personal vote and proportional representation systems. Such models exist in the electoral laws of several Member States. One is used for elections to the Italian Senate; another form was used by the Federal Republic of Germany for the 1979 European elections.

The hybrid system recommended by the British Government when drafting legislation for the first direct elections to the European Parliament involves the creation of large constituencies, each with a multi-member list, and the possibility of preferential voting.

The system peculiar to Ireland and Northern Ireland is also worth mentioning.

9. Let us now consider some of the mixed systems currently in force in the Member States¹:

(a) The system of election to the Italian Senate

The system of election to the Senate can be described as a mixed system which in practice operates as proportional representation.

The 315 senators are in theory elected on the basis of single-member constituencies by an absolute majority of 65%.

In constituencies where no candidate has obtained the number of votes necessary for immediate election, a special system nevertheless allows the votes obtained by the various candidates to be pooled together as party votes at regional level. By law each candidate for election to the Senate may, if he so desires, form a group with at least two other candidates from the same region. In practice all candidates from any one party standing in the same region may form a group so that they in fact represent a regional list.

¹The description of the various systems is based on 'European Electoral Systems Handbook' by Georgel/Hand/Sasse, London 1979.

The regional electoral office calculates the total number of votes obtained by each group of candidates in constituencies in which none of them has obtained the absolute majority of 65%. The office then allocates seats in accordance with the d'Hondt method, i.e. by successively dividing each group's total poll by 1, 2, 3, 4 etc. up to the number of seats to be filled. The seats are then awarded to each 'list' in descending order of the highest quotients. From each 'list' the candidates obtaining the highest number of votes expressed as a percentage of the registered electors in their constituency are declared elected.

(b) The system of election to the German Bundestag

10. The electoral system of the Federal Republic of Germany is a combination of the majority system and proportional representation in which the latter exerts a decisive influence on the allocation of seats. The country is divided into 249 constituencies although the Bundestag has 498 members (and an additional 20 deputies for Berlin). On each ballot paper (see annex) each elector has two votes, the first under the majority system and the second under proportional representation.

The deputy of a constituency is elected by a relative majority of electors' first votes; the candidate obtaining the highest number of votes is elected.

The second vote is cast for a Land list; seats are allocated between the different lists in accordance with the d'Hondt method.

11. The two systems are combined by subtracting the seats won by a party in the constituencies, i.e. by the majority system, from the seats obtained by it on the Land list, i.e. by proportional representation. If the number of seats won by a party in the constituency is greater than the number it obtains following the distribution of second votes among the Land list, it is allowed to keep the extra seats (supernumerary seats). In such a case the total number of Bundestag deputies is increased by the number of super-numerary seats. This procedure has not however been applied since the 1961 elections when there were three supernumerary seats.

(c) The system of election to the French National Assembly

12. Election by absolute majority in two ballots. To be elected in the first ballot a candidate must obtain an absolute majority and at least one-quarter of the valid votes cast by registered electors. In the second ballot, which takes place one week later, a relative majority is sufficient.

Only candidates polling at least 12.5% (since the 1976 law was passed) of the votes cast by registered electors in the first ballot may take part in the second.

Should only one candidate fulfil this condition, the candidate with the second highest number of votes is admitted to the second ballot.

13. Should no candidates fulfil this condition, a second ballot is held between the two candidates polling the most votes at the first ballot.

No candidate or substitute may stand for election in more than one constituency.

(d) System of election to the Irish Parliament

14. The names of the candidates appear in alphabetical order on the ballot paper. The voter, who has one transferable vote, indicates the order of his choice by writing 1 opposite the name of his first choice, 2 opposite the name of his second choice, 3 opposite the name of his third choice and so on. He is free to indicate a preference for one candidate only, or for a limited number of candidates or for each of the candidates in the order of his choice (see Annex).

In this way the voter gives instructions to the returning officer to transfer his vote to the candidate of his second choice if the candidate of his first choice receives more than the quota of votes necessary for election or if his first choice is eliminated (through receiving so few votes as to have no chance of election). If the same situation applies to his second choice the vote may be transferred to his third choice and so on. The quota of votes which is the number of votes necessary for election of a candidate is ascertained by dividing the total number of valid papers by the number of seats plus one and adding one to the result; e.g. if there were 40,000 valid papers and 4 seats to be filled the quota would be 8,001, i.e. $\frac{40,000}{(4 + 1)} + 1$. It will be seen that in this example only four candidates could possibly reach the quota.

15. At the end of any count any candidate who has received a number of votes equal to or greater than the quota is deemed to be elected. If a candidate receives more than the quota his surplus votes are transferred to the remaining candidates in the following way. If the candidate's votes are all first preference votes, all his ballot papers are sorted into separate parcels according to the next preference shown on them. A separate parcel is made of his non-transferable votes (papers on which a subsequent preference is not shown). If the surplus is less than the number of transferable votes each remaining candidate then receives from the appropriate parcel of transferable votes a number of votes calculated

as follows:

$$\frac{\text{Surplus}}{\text{Total number of transferable votes}} \times \text{number of papers in parcel.}$$

16. If the surplus is equal to or greater than the number of transferable votes, each candidate will receive all the votes from the appropriate parcel of transferable votes. If the surplus arises out of transferred papers, the papers in the parcel last transferred to that candidate are examined and this parcel is then treated in the same way as a surplus consisting of first preference votes. If two candidates exceed the quota the larger surplus is distributed first. If no candidate has a surplus the lowest of the remaining candidates is eliminated and his papers are transferred to the other remaining candidates according to the next preference indicated on them. If a ballot paper is to be transferred and the second preference shown on it is for a candidate already elected or eliminated the vote passes to the third choice and so on. Counting continues until all the seats have been filled. If the position is reached where the number of seats left to be filled is equal to the number of candidates still in the running these candidates are declared elected without having obtained the quota. Similarly, if only one seat remains to be filled and one candidate has more votes than all the other remaining candidates together with any surplus votes not yet distributed, that candidate is deemed to be elected without having reached the quota.

V. THE ELECTORAL THRESHOLD

17. The term 'electoral threshold' means that votes for candidates or lists that have not obtained a certain percentage of the votes cast are not taken into consideration when allocating seats.

Under proportional representation, the threshold is often 5% (e.g. in Germany and France for direct elections). The purpose of the threshold is to ensure that no seats are allocated to unrepresentative minorities. The relatively small number of members to be elected to the European Parliament in each Member State implies a 'technical' threshold. 1.3% of the votes are needed to obtain a seat in one of the four 'large' Member States and 16.7% in Luxembourg.

18. In view of these differences, it is clear that the same threshold in all the Member States would not produce the same results. The rapporteur therefore proposes that the establishment of a threshold be left to the discretion of the individual Member States.

VI. DEROGATIONS

19. In its resolution of 14 January 1975 on the adoption of a draft convention introducing elections to the European Parliament by direct universal suffrage¹, the European Parliament made no proposals concerning derogations in respect of special ethnic, geographical or constitutional factors in the Member States. However, some provisions of this type were included in the Act governing the election of the representatives of the Assembly by direct universal suffrage². Article 7(2) states that

'Pending the entry into force of a uniform electoral procedure and subject to the other provisions of this Act, the electoral procedure shall be governed in each Member State by its national provisions.'

According to Annex I,

'The Danish authorities may decide on the dates on which the election of members to the Assembly shall take place in Greenland.'

In view of the special status of the Channel Islands, the Isle of Man and Gibraltar, the United Kingdom requested that they be excluded from the Act. Annex II therefore states that

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

The Act contains a third derogation, in the form of a Declaration by the Government of the Federal Republic of Germany:

'The Government of the Federal Republic of Germany declares that the Act concerning the election of the members of the European Parliament by direct universal suffrage shall equally apply to Land Berlin.'

In consideration of the rights and responsibilities of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, the Berlin House of Deputies will elect representatives to those seats within the quota of the Federal Republic of Germany that fall to Land Berlin.'

The Act thus recognizes the special status of the Land of Berlin which results from an agreement between the Member States referred to in the declaration and the Government of the Federal Republic of Germany. The three representatives of the Land of Berlin in the European Parliament are consequently elected at one remove.

¹ OJ No. C 32, 11.2.1975

² OJ No. L 278, 8.10.1976

20. Special provisions applying these derogations were included by the national parliaments in their laws concerning elections to the European Parliament in respect of the regions of Brussels, Greenland, West Berlin, South Tyrol, Val d'Aosta and Friuli, and Northern Ireland.

Account is taken of the status of Brussels as a bilingual town by allowing electors the possibility of voting either for candidates on the list for the French-speaking region or for candidates on the list for the Flemish-speaking region¹.

The special status of Greenland is recognized in Annex I to the Council Act and by a special electoral law adopted by the Folketing². The German electoral law contains a number of provisions which take account of the special status of the Land of Berlin³.

The Italian electoral law contains special provisions⁴ aimed at defending the rights of linguistic minorities in the North of Italy by granting them appropriate representation within the European Parliament. The British electoral law provides for a special electoral system to be used in Northern Ireland, totally different from that adopted for England, Scotland and Wales, in order to ensure representation of the minority in the European Parliament⁵.

21. The rapporteur proposes in Article 4 of the draft Act that these derogations should be renewed. The special factors for which provision had to be made in national legislation on the first European elections still apply. Moreover, it would seem advisable to prepare for the possibility of derogation in the event of the accession of Spain and Portugal to the Community. Lastly, although no provisions of this type appear in the 1975 European Parliament resolution, the rapporteur considers that express but unrestrictive reference should be made to them.

¹ Law of 16.11.1978 on direct elections to the European parliament, Articles 4 and 5 (PE 57.047, P.4)

² Law on the election of Danish representatives to the European Parliament, Article 2 (PE 54.524, p.2)

³ Law of 16.6.1978 on the election of Members of the European Parliament from the Federal Republic of Germany, Articles 29 and 30 (PE 54.757, pp. 20-21)

⁴ Law No. 18 of 24.1.1979 on the election of Italian representatives to the European Parliament, Article 12 (PE 57.047, p.22)

⁵ European Assembly Elections Act 1978, section 3 and Schedule 1 (PE 54.757, pp. 24 and 28)

It should be emphasized that Article 4 of the draft Act does not leave the way open for Member States to avoid its application. The Political Affairs Committee wished to limit the scope of the exceptions provided for so as to retain a maximum of uniformity in the electoral procedure.

The exceptions are thus restricted to special geographical or ethnic factors recognized by the written or unwritten Constitution of the State concerned. In the view of the rapporteur and the Political Affairs Committee, any special factor should be recognized by some provision of a constitutional nature - either law, regulation, custom or practice. At the same time the rapporteur wishes to take account of national laws or traditions which are regarded as provisions of a constitutional nature.

If, in this sensitive area, the Council intends to ask for Parliament's opinion on the inclusion of exceptions in the Council Act, it could do so, in the rapporteur's view, under the provisions of Article 13 of the Act of 20 September 1976. On the basis of this Article, the Council may consult Parliament before deciding on the final text of the Act; this would seem an appropriate procedure for determining the way in which the Council implements Article 4 of Parliament's draft Act.

VII. PROPOSED MODEL

22. A proportional system for the allocation of seats is necessary to ensure that the major political forces are represented within the European Parliament.

To help establish direct links between the electors and their elected representatives, provision must be made within this system for personalized voting and the maximum number of seats for each multi-member constituency should be restricted to 15. The hybrid system proposed contains no elements of the majority system.

It is suggested that the territory covered by the elections (i.e. each Member State) should be divided into multi-member constituencies within which the members are elected by proportional representation on the basis of regional or national lists.

Each elector would have one vote and would vote for one of the candidates on the list. The decision on whether to introduce preferential voting would lie with the Member States.

Seats would be allocated at national level to each list or combination of lists in accordance with the d'Hondt system, taking account of the total number of votes secured by the list or combination of lists involved. The seats so allocated would then be divided between the lists concerned in accordance with the d'Hondt system on the basis of the number of votes secured in the constituencies.

It would be left to the Member States to decide how their territory was to be divided into constituencies and whether national or regional lists would be used, with the proviso that each regional list must include at least three and no more than fifteen seats.

The order of candidates' names on each list would be used to determine the order in which those candidates were elected except in the case of preferential voting.

The decision to apply a threshold would be left to the discretion of the Member States in view of the substantial differences in the number of representatives to be elected in the various Member States. The smaller the number of seats, the higher the technical threshold.

23. The Member States could be divided into constituencies as follows:

	Members Population	Constituencies min./max.	Breakdown of constituencies in June 1979
Belgium	24 (9.8 m)	min. 2 max. 8	3 constituencies with 2 electoral colleges
Denmark	16 (5.05 m)	min. 2 max. 5	1 + Greenland
Germany	81 (61.4 m)	min. 6 max. 27	1 or 10 and Berlin
France	81 (53.59 m)	min. 6 max. 27	1
Greece	24 (9.5 m)	min. 2 max. 8	1 (Oct. 81)
Ireland	15 (3.37 m)	min. 1 max. 5	4
Italy	81 (57 m)	min. 6 max. 27	5
Luxembourg	6 (0.354 m)	min. 1 max. 2	1
Netherlands	25 (14.09 m)	min. 2 max. 8	1
United Kingdom	81 (55.90 m)	min. 6 max. 27	78 + 1 (Northern Ireland)

Each State may be divided into several constituencies represented by a variable number of members, subject to the above limits. Since the number of members allocated to each Member State is fixed, it may be very difficult, if not impossible, to use the votes left over (remainders) at national level.

The Member States should opt for constituencies with a larger number of members (e.g. 15) so as to eliminate as far as possible the difficulty of how to use their remainders.

This system also enables each Member State to take account of special cases, such as Berlin, Greenland, Northern Ireland and the Val d'Aosta.

National authorities may allow for preferential voting within a list, but vote-splitting is forbidden.

VIII. THE RIGHT TO VOTE

24. Every citizen of a Member State of the European Community resident within the Community should be able to participate in elections. This entitlement should be guaranteed by the right to vote in the country of which the person concerned is a national and should be independent of the place of residence, where the latter is situated within the Community.

However, if the European Parliament is to be as representative as possible, progress has to be achieved in this area. Ireland and the Netherlands granted nationals of other Member States genuinely resident in their countries the right to vote in the 1979 European elections. In the Netherlands this right was confined to those persons deprived of the right to vote in their country of origin by the government of that country.

These national initiatives should now be harmonized at European level by the draft Act. Article 5 of the draft stipulates that the Member States must grant the right to vote to nationals of other Member States who have been resident in their country for at least five years.

Nationals of Member States who have been resident in another Member State for less than five years must be guaranteed the right to vote in their country of origin by proxy, by post, at a consulate, or by some other means.

This provision would ensure that Community citizens who, for example, spent only two or three years in another Member State retained their right to vote in their country of origin. The Member States should therefore incorporate into their national legislation the necessary provisions guaranteeing all Community citizens over the age of 18 the right to vote.

25. Present situation (European elections)

- Age: uniform (18), except for Greece (20)
- Residence (or domicile) and nationality requirements:
 - United Kingdom (Irish citizens resident in the United Kingdom also have the right to vote).
 - Belgium (at least 6 months' domicile in the same commune required for citizens voting for Deputies).
- Nationality requirement only:
 - Denmark, Federal Republic of Germany, Italy, Luxembourg, the Netherlands, France and Greece
- Residence requirement only:
 - Ireland, and the Netherlands in particular circumstances, i.e. a foreign national belonging to a Member State of the Community who is deprived of the right to vote in the country of which he is a national and resides in the Netherlands, has the right to vote in the Netherlands.

IX.) THE RIGHT TO STAND FOR ELECTION

26. Age:

The minimum age of eligibility in the individual Member States of the Community is as follows :

Country	minimum age
Belgium	21
Denmark	18
Federal Republic of Germany	18
France	23
Ireland	21
Italy	25
Luxembourg	21
Netherlands	25
United Kingdom	21
Greece	25

27. Nationality of candidates

Each Member State of the Community requires its candidates for the European Parliament to be nationals of that country, except the United Kingdom, in which citizens of the Irish Republic are also eligible. Otherwise, the only differences are in the length of time naturalized citizens must wait before they become eligible; e.g., one year in the Federal Republic of Germany, and ten years in France.

28. Most Member States do not require their candidates to reside in the country they hope to represent; Belgium and Luxembourg are the exceptions that do, while Denmark requires that its candidates should reside at least within the Community.

	Residence in national territory	Residence within EEC	No provisions
Belgium	X		
Denmark		X	
Federal Republic of Germany			X
France			X
Ireland			X
Italy			X
Luxembourg	X		
Netherlands			X
United Kingdom	X		
Greece			X

29. Role of the parties

National legislation on eligibility allots widely varying roles to the parties, according to the historical background of their electoral systems.

In Denmark, Greece, Italy and the Netherlands, for instance, the national parties alone are allowed to submit lists of candidates for elections, while Germany also permits other political groupings from the Community as a whole to do so.

In practice the national parties also draw up the lists of candidates in Belgium and France, but this is only partly true of Luxembourg.

Party influence is weaker only in Ireland and the United Kingdom, which traditionally allow individual candidacies and where there are no party lists, which gives even independents a chance. In most cases the choice of candidates is left to the parties themselves, Germany with its compulsory selection of party candidates by democratic process being the exception.

It will already be clear that the political parties are the dominant political force in the selection of candidates. They are further helped by the formalities described in the next section, which are far more difficult, and not impossible, for the independent candidate to handle without the backing of a party organization.

It is also worth noting that the established political parties can claim certain privileges by comparison with new political groupings, which are subject to further restrictions, also described in the next section. The established parties therefore enjoy a kind of monopoly in putting up candidates.

	Parties only	Individuals
Belgium	X	X
Denmark	X	
Federal Republic of Germany	X	
France	X	X
Greece	X	
Ireland		X
Italy	X	
Luxembourg	X	X
Netherlands	X	
United Kingdom		X

30. Preliminary formalities

All Member States require candidates to be nominated in lists primarily or party lines, apart from Ireland and the United Kingdom where the candidates have to be nominated individually, and in Ireland may even nominate themselves.

The deadline for submitting the lists of candidates also varies. In Belgium it is 37 days before the election, in Germany 47, in Luxembourg 60 and in the Netherlands 43; in France candidates must be nominated by the third Friday before election day, and in Ireland within seven days of the last date of publication of the announcement of the election, and in the United Kingdom on a form within eight days of the election being called. In Greece the deadline is 16 days.

In Italy, the lists have to be submitted 40 days before the election, but the parties' election symbols must be submitted 49 days before. By contrast, in Denmark the lists of candidates need not be submitted until 25 days before the election, except in the case of new parties, which have to submit their lists a full 57 days before the elections, with 62,000 signatures. Germany also imposes extra requirements on new parties, compelling them to produce signatures of at least 1% of the electorate, with a maximum of 2,000 per Land, or 4,000 for the Federal Republic as a whole. In Italy, the lists of candidates for new parties must obtain the signatures of 20-25,000 voters in each constituency, at least 10% coming from each region within the constituency. In Greece 100 signatures per electoral province are required.

Luxembourg, on the other hand, requires 100 voters' signatures for each list. In Belgium candidates require the signatures of either five members of parliament of the language group in question or at least

1,000 voters for each electoral province for which there are candidates. In the United Kingdom a nomination requires the signature of only 30 voters, but a deposit of £600. Ireland requires a deposit of EIRL1,000 per candidate, returnable if he obtains over one third of the votes required for election. France requires a deposit of FF 100,000 per list, returnable if over 5% of the votes are obtained. The Netherlands requires that each list, which has to be signed by 25 voters, be accompanied by a deposit of 18,000 guilders, except where it is a list of a political grouping holding one or more seats in the European Parliament. In Greece a deposit of Dr 150,000 is required for each list but there are no requirements as to signatures.

	Candidature		Additional requirements	
	list	individually	No. of signatures	deposit
Belgium	X		X	
Denmark	X		X	
Federal Republic of Germany	X		X	
France	X			X
Greece	X			X
Ireland		X		X
Italy	X		X	
Luxembourg	X		X	
Netherlands	X		X	X
United Kingdom		X	X	X

X. ELECTION DAY

31. National Elections

The day of the week on which general elections are held is laid down by law in the following Member States:

Belgium	Sunday	Electoral law
Federal Republic of Germany	Sunday	Federal electoral law
France	Sunday	Law No. 55
Greece	Sunday	Electoral law
Luxembourg	Sunday	Law of 27 July 1956
Netherlands	Wednesday	Electoral law

In the following Member States election day is determined by tradition:

Denmark	normally Tuesday
Ireland	Tuesday, Wednesday or Thursday by tradition
Italy	Sunday and Monday morning
United Kingdom	Thursday by tradition

32. European elections

Article 9 of the Act of the Council of 20 September 1976 provides that:

1. Elections to the Assembly shall be held on the date fixed by each Member State; for all Member States this date shall fall within the same period starting on the Thursday morning and ending on the following Sunday.
2. The counting of votes may not begin until after the close of polling in the Member State whose electors are the last to vote within the period referred to in paragraph 1.

In Article 9 of the draft convention which it adopted on 14 January 1975 the European Parliament proposed that:

1. Elections to the European Parliament shall be held on the same day in all Member States.
2. Any Member State may, however, decide to hold the elections one day earlier or later than the fixed date or to spread them over two consecutive days including that day.

The relatively long period chosen by the Council was intended to meet the requirements of those countries accustomed to vote on a working day rather than on a Sunday in their national general elections.

Thus the electors of Denmark,
Ireland,
The Netherlands
and the United Kingdom

went to the polls on Thursday 7 June. In the five other Member States voting took place on Sunday 10 June 1979.

The long period of time which elapsed between the closing of polling stations on 7 June and 10 June created considerable difficulties in view of the fact that Article 9(2) of the Council Act of 1976 expressly prohibited the counting of votes until polling had closed in all the Member States. These difficulties included:

- (a) technical problems relating to sealing the ballot boxes on 7 June and keeping them under lock and key until 10 June;
- (b) the extra cost involved in paying the staff responsible for counting votes on Sunday evening and in particular votes cast on the Thursday which but for the Council Act would have been counted on Friday;
- (c) the fact that for religious and financial reasons some countries (or some areas of certain countries) did not begin counting votes until Monday morning;
- (d) the difficulties encountered by the media in maintaining interest until Sunday and Monday in the results of the elections which had been held in four countries¹ on the previous Thursday.

A shorter voting period would have great advantages both for the technical reasons discussed above and also - which is very important - in order to focus and stimulate interest in the elections. It would therefore seem necessary to have the possibility of organizing the ballot:

- (a) on a Sunday as happened in six out of the ten Member States.
- (b) on a working day as happened in four out of the ten Member States

Of the four countries in which the ballot was held on Thursday 7 June 1979, only two traditionally voted on a Thursday and in one of them, Ireland, elections are held either on a Tuesday, Wednesday or Thursday. Denmark and the Netherlands were obliged to vote on a Thursday instead of a Tuesday as is usual in Denmark and a Wednesday as is usual in the Netherlands. It appears from the discussions which took place at the time within the Council

Accounting for 77 million people, i.e. 30% of the Community.

that there was no material reason for those two countries and Ireland not to vote on a Monday. If they were prepared to vote on a Monday perhaps it would be possible to persuade the United Kingdom also to vote on a Monday in European elections.

Conclusion

It might be desirable to propose that direct elections should be held on a Sunday and Monday at the beginning of June 1984

XI. VACANT SEATS

33. National elections

As far as national elections in the ten Member States are concerned, where a seat falls vacant, by-elections are held in France, Ireland and the United Kingdom. In Belgium the vacant seat is filled by an alternate and in the other six Member States by the next candidate on the list of the party of the member whose seat has fallen vacant.

34. European elections

Under the various systems of electoral law applying to European elections, a vacancy occurring between European elections is filled in the following manner:

	Next on List	Alternate	By-Election	Decision of Parliament
Belgium		x		
Denmark	x			
Federal Republic of Germany	(x)	x		
France	x			
Greece	x			
Ireland				x
Italy	x			
Luxembourg	x			
Netherlands	x			
United Kingdom			x	

35. Conclusion

If a proposal for a uniform procedure is submitted providing that members shall be elected by proportional representation in regional or national constituencies vacant seats could be filled by the next unsuccessful candidate on the list of the party of the previous Member.

There does not seem to be any valid objection to the harmonization of the ten Member States' provisions on this question.

XII. PROVISIONS GOVERNING THE ELECTORAL CAMPAIGN

36. For the purpose of national elections, these provisions cover the financing by the State of political parties' election campaign expenses, restrictions on election campaign expenses as respects parties or individuals, the duration of the campaign, provisions on broadcasting time, the free provision of certain forms of practical assistance in connection with the election etc. The following provisions apply to the European elections:

	No special provision	Special Provisions
Belgium	x	
Denmark	x	
Federal Republic of Germany		The parties receive an amount proportional to the share of votes which they have obtained out of a fund intended to cover election campaign expenses up to DM 150 million (DM 3.5 per vote).
France		The campaign begins two weeks before voting day and during this time broadcasting time on radio and television is paid for by the State. Lists which obtain 5% of the votes receive a refund of certain expenses incurred in the election campaign such as printing ballot papers and campaign material.
Greece		In the 1981 elections every party was entitled to make a television broadcast lasting 12 minutes. Duration of campaign: 30 days.
Ireland	x	
Italy		Expenses incurred in the election campaign are reimbursed subject to certain limits.
Luxembourg	x	
Netherlands	x	
United Kingdom		The permissible upper limit for election expenses for any candidate standing for a European constituency is a fixed sum of £5,000 plus 2 pence for each registered elector. This restriction comes into force from the announcement of candidature. There are certain restrictions on broadcasting time in the five weeks before voting.

Only the four larger countries have enacted provisions in their laws on European elections that regulate the election campaign. These measures are in no way homogeneous.

It seems neither possible nor necessary to harmonize such provisions.

OPINION OF THE LEGAL AFFAIRS COMMITTEE

Draftsman : Mr. F. D'ANGELOSANTE

The Legal Affairs Committee was asked for its opinion on the uniform electoral system on 5 October 1981.

On 2 October 1980, pending formal consultation, the Legal Affairs Committee had already appointed Mr D'Angelosante draftsman of an opinion on the draft convention, petition No. 7/79 concerning British representation in the first directly elected European Parliament (PE 59.759) and petition No. 9/79 concerning the right to vote for British citizens living in France (PE 59.833).

The committee considered the draft opinion at its meetings of 22-23 September and 26-27 October 1981; the opinion was adopted by 9 votes to 1 with 4 abstentions at the latter meeting.

Present: Mr Ferri, chairman; Mr Luster, Mr Turner and Mr Chambeiron, vice-chairmen; Mr D'Angelosante, draftsman of the opinion; Mrs Cinciari Rodano, Mr Dalziel, Mr Donnez, Mr Fischbach, Mr Goppel, Mr Janssen van Raay, Mr Modiano, Mr Prout, Mr Sieglerschmidt, Mr Tyrrell and Mr Zecchino (deputizing for Mr Gonella).

I. INTRODUCTION

1. The election of the European Parliament by direct universal suffrage is provided for by Articles 21(3) of the ECSC Treaty, 138(3) of the EEC Treaty and 108(3) of the EAEC Treaty. These clauses, which are identical, stipulate that 'the Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States'. Once Parliament has fulfilled this requirement, the Council must, 'acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements'.

2. The first of these clauses confers on the European Parliament a power of initiative of manifest political importance. Indeed, the provision requiring the election of the Members of the European Parliament by direct universal suffrage is the only clause in the Treaties which vests the Parliamentary Institution with a power of initiative. Parliament first acted to give effect to this provision in 1960, when it adopted a resolution 'concerning the approval of the draft convention on the election of the Parliamentary Assembly by direct universal suffrage'¹.

The Council, however, failed to give the necessary follow-up to Parliament's proposal by adopting, as it was obliged to do, the measures required for the elections to take place. On the contrary, it did nothing in response to Parliament's initiative. On that occasion, therefore, it was clearly the Council that defaulted on its obligations.

Parliament, for its part, repeatedly urged the other Institution to fulfil its responsibilities and take the necessary action. However, the Council continued to be totally unresponsive and on 28 October 1971 the President-in-Office of Parliament therefore requested two distinguished jurists - Professors Costantinesco (Saarbrücken) and Kovar (Strasbourg-Nancy) - to give their views on the possibility of bringing an action against the Council for failure to act, within the meaning of Article 175 of the Treaty. The President informed Parliament of this request².

¹OJ of 2.6.1960, p. 834

²See PE 30.050/Ann. of 26.5.1972

The opinion of these experts was that an appeal against the Council was possible, but that it should be considered as an alternative to continued efforts to resolve the problem in collaboration with the Council: only one or other of the two courses of action was practicable, in other words, if Parliament opted for a legal battle, it would forfeit any further chance of settling the matter through the normal negotiating processes.

3. In a resolution dated 14 January 1975 Parliament adopted a new draft convention on the election of the Members of the European Parliament by direct universal suffrage¹.

The subsequent 'Act concerning the election of the representatives of the Assembly by direct universal suffrage', which was adopted by the Council by decision of 20 September 1976², took up a number of the proposals contained in this draft convention. Indeed, the Act incorporates its most important provisions, viz. those relating to the duration of the mandate (Article 3), the principle of the personal vote and the exclusion of the binding mandate (Article 4), the compatibility of the European mandate with the national mandate (Article 5) and the various cases of incompatibility (Article 6), etc.

4. With the adoption of this convention, then, Parliament exercised a genuinely 'constituent power' by virtue of the task conferred on it by the Treaties. In 1975, however, this power could not be exercised correctly, since it was not as wide as that envisaged by the Treaties.

Of particular significance in this connection is the change to the statutory process that resulted in deferment of the introduction of the uniform electoral procedure to a later stage.

As we know, the Treaty provides for two stages: a first stage, during which the Members of Parliament are designated by their respective Parliaments in accordance with the 'procedure laid down by each Member State'³; and a second stage, during which the direct election of the Members of Parliament and the application of a uniform electoral procedure are required to take place at one and the same time. The 1975 draft convention and the 1976 Act separated the two events,

¹OJ No. C 32 of 11.2.1975, p.15

²OJ No. L 278 of 8.10.1976

³Article 21(1) of the ECSC Treaty, Article 138(1) of the EEC Treaty and Article 108(1) of the EAEC Treaty

authorizing the immediate election of the European Parliament and delaying the formulation of a uniform electoral procedure. This delay, which seems totally at variance with the provisions of the Treaty, will not continue indefinitely, since the Act of September 1976 requires the rules governing the uniform electoral procedure to be adopted during the first legislative term of the elected Parliament, so that it can be applied at the time of the second European elections¹.

II. THE CONCEPT OF 'UNIFORM PROCEDURE'

5. As we have seen, Parliament is required under the Treaties to draw up 'proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States'². Parliament is thus bound by the statutory provisions cited above and, all things considered, it is clearly in its best interests to see to their implementation. If it has not yet done so, it is not because the Treaties are open to a different interpretation or because a legal basis exists for a different opinion. The real reason is bound up with the assessment that was made of what was politically feasible and desirable. It is not our intention here to discuss this assessment, even if it was quite mistaken at the time and is today altogether indefensible.

6. This conclusion is in no way influenced by the hair-splitting arguments that took place over the degree of uniformity of the electoral procedure required under the Treaties, the main reason being that not even those who expressed doubts about the matter believed that the 1975 draft convention had introduced, even partially, a uniform electoral procedure. In any case, as we have already seen, both that draft and the subsequent Act of the Council expressly deferred implementation of the uniform procedure.

A further reason is that what this procedure involves is sufficiently clear and does not pose any particular difficulties as regards interpretation. Indeed, if interpreted literally, the contradiction between the concept of 'procedure laid down by each Member State' (Article 138(1)) and the concept of 'uniform procedure in all Member States' (Article 138(3)) is only apparent since, with the introduction of the uniform procedure, the procedures of the individual States would be superseded.

From a logical viewpoint, it is inconceivable that a uniform electoral system should be based on a multiplicity of legal sources, except where the constitutionally competent source delegates to other institutional bodies the power to formulate certain aspects of the procedure. Here, however,

¹See Article 7

²Article 21(3) of the ECSC Treaty, Article 138(3) of the EEC Treaty and Article 108(3) of the EAEC Treaty

it is clear that all the statutory provisions derive from the one competent source and the fact that certain powers have been delegated does not diminish the competence and the legitimacy of that source: rather they confirm and reinforce it.

As we have said, then, the interlocutory choice expresses a political option as to the desirability and possibility of pursuing a particular course of action, which, in our opinion, is now no longer admissible.

7. It was preferred, then, to conduct the first direct elections on the basis of the individual national systems, and these took place from 7 to 9 June 1979. The European Parliament is now preparing to give full effect to Article 138(3) of the EEC Treaty by drawing up a draft convention on the uniform electoral procedure for the election of the representatives of the European Parliament.

8. In performing this task Parliament must proceed on the basis of the present rules, i.e. those contained in the Act of 20 September, which stipulates that 'the electoral procedure shall be governed in each Member State by its national provisions' (Article 7(2)). The Act of 20 September 1976 constitutes, by its very nature, a transitional stage for which there is no provision in the Treaties, which specify solely that there is to be a transition from a Parliament whose Members are designated by their respective national Parliaments to a European Parliamentary Institution composed of representatives elected on the basis of a 'uniform procedure'.

It is plain that the national laws enacted for the election of the Members of the European Parliament have not had the effect of instituting a uniform electoral procedure; rather they have held fast to the principles applicable to the national electoral procedure - a fact of which the authors of the 1975 convention and the Act of 20 September 1976 were fully conscious.

III. PRINCIPLES THAT MUST BE WRITTEN INTO THE CONVENTION

9. Since the Act annexed to the Council Decision of 20 September 1976 is largely based on the draft convention adopted by Parliament in 1975, introducing a provisional stage preparatory to the entry into force of a convention that must give full effect to Article 138(3) of the Treaty, the new convention will necessarily have to regulate, as far as possible, all matters connected with the introduction of a uniform electoral procedure.

All the provisions which, being mainly of an executive nature and consisting primarily of administrative acts, continue to be entrusted to the individual Member States, will, of course, be excluded: the keeping of

electoral lists, particulars relating to poll cards and the time of their issue, the nomination of members of the electoral offices, etc.

10. The uniform electoral procedure must on no account betray any inconsistencies, i.e. reveal errors in the main areas of choice that might be reflected in the composition of the Assembly. It is essential to establish the vital principle that electoral rules are no longer admissible which, while promoting the interests of a particular State or even of a particular national party, damage and weaken Parliament by distorting its representativeness.

It may be the case that the Members from a small State represent far fewer electors than the number necessary for the election of Members from larger and more populous States, but this situation arises because Parliament (and subsequently the Council) considered the presence of representatives of all the States to be necessary. However, there must not (or should not) be a situation in which, taking advantage of the agreement not to decide on a uniform electoral procedure, some Member States substantially change their parliamentary representation so that the ratio between Parliament's Members and groups is thrown out of balance.

It should not be forgotten that, in the last analysis, the body that is most interested in having a balanced electoral system is the Assembly itself (hence, perhaps, the constituent power conferred upon it), since it would have to suffer the consequences of equivocal legislative decisions regarding the appointment of its Members.

11. The new convention should therefore propose, with reference to the Act of 20 September 1976, the rules on the basis of which the Members of the European Parliament will be elected. No reference to national laws will be necessary. The fundamental principle underlying these rules could be worded as follows:

'The representatives to the European Parliament shall be elected in all the Member States in accordance with a uniform procedure instituted pursuant to Article 21(3) of the ECSC Treaty, Article 138(3) of the EEC Treaty and Article 108(3) of the EAEC Treaty. This procedure is defined in this convention'.

12. The age at which persons become eligible to vote is the same in all the Member States (18 years). The convention could contain a clause which establishes this as a general principle for the European elections as well. This clause would necessarily have to be accompanied by a provision concerning the exercise of the right to stand for election. In the first European elections the age requirement differed in accordance with national laws, with the minimum age ranging from 18 years (Denmark and Germany) to 25 years (Italy and the Netherlands).

The convention should fix the same age limit for all the Member States, because any differentiation between candidates in terms of age, apart from being a potentially distorting factor in the election result, would constitute a form of discrimination between candidates of different nationality.

The convention could therefore provide as follows:

'All citizens of the Member States who have reached 18 years of age shall have the right to vote'.

13. As regards the right to stand for election, since the age limit varies under national law, the convention could fix the same age for all the Member States, for example 18 years:

'All citizens of the Member States who have reached 18 years of age shall be eligible to stand for election to the European Parliament'.

14. Naturally, the conditions laid down by national legislation for the exercise of these rights would remain in force, and this could be covered by the following provision:

'The exercise of the right to vote in elections and to stand for election may be prohibited or suspended in the case of persons whose conduct is such that the national laws require their name to be deleted from the registers of electors, provided that such conduct is legally established in the manner specified by those laws'.

15. A further problem that should be examined is the exercise of the right to vote outside the State of which the elector is a citizen. The new convention should specify that the attribution of the right to vote in the European elections is a concept that cannot accommodate the existing discrepancies in the national laws concerning the rights of citizens who reside or do not reside in the national territory. The convention should therefore make it obligatory for all the Member States to guarantee the right of all their citizens to vote in the European elections, while providing suitable centres for this purpose.

The convention should therefore stipulate that:

'The citizens of the Member States who are resident in another Member State shall exercise their right to vote without restriction. The Member States shall adopt all the measures necessary to ensure that they are able to exercise the right to

vote at diplomatic missions or at other places that afford equivalent guarantees. In addition, the States in which the electors are resident shall provide all the assistance necessary to ensure the freedom and secrecy of voting and to prevent negative consequences of any kind for the electors and the members of the electoral offices'.

16. As regards the citizenship of candidates, the right to stand for election should be granted by the Member States to all their citizens, irrespective of their place of residence. In this connection, the new convention should provide that all the compulsory preliminary formalities concerning the nomination of candidates may also be completed at the diplomatic missions of each State in the other Member States, at which the necessary facilities would be provided.

Special problems are created, however, by the deposit that is required in four Member States (France, Ireland, the Netherlands and the United Kingdom), whereas in the other six States nominations must be supported by a minimum number of signatures. If candidates of various nationalities resident in a State other than their own are to enjoy equivalent rights, the rules here should be standardized and they should not be different from those applied to candidates resident in the national territory.

The convention should therefore include a clause standardizing the procedures for the completion of the compulsory preliminary formalities by all those eligible to stand for election. This clause could be drafted along the following lines:

'Irrespective of their place of residence, the citizens of the Member States may present their candidature for the election to the European Parliament, provided that their eligibility to stand is not precluded under national law by offences or other legally established facts requiring the deletion of their names from the electoral lists. The list of the parties and groups presented in the European Parliament and/or in the respective national parliaments shall be submitted, directly or through an authorized agent, by the national Secretary or the President of the party or group concerned. The other lists must be submitted by not less than 25,000 electors included on the registers of electors of the Member State of which the candidates are citizens. Deposits shall not be required for the election to the European Parliament'.

17. The foregoing provisions give some indication of one of the central objectives which ought to be pursued if a uniform electoral procedure is to be successfully instituted: the introduction throughout the Community of single national lists that are valid for the entire constituency, each constituency being made up of one Member State.

This arrangement may be considered as an alternative to that of a single list for the entire Community territory, a solution which, although far preferable to all others because it is the most homogeneous, would nonetheless pose serious difficulties, e.g. it would require the individual Member States to dismantle the present structures, based on national conditions, within which they operate - which would have a far-reaching effect on the existing national parties.

IV. ESSENTIAL ELEMENTS OF A UNIFORM ELECTORAL SYSTEM

18. We have now come to the nub of the problem: by limiting our options to the assumptions and proposals advanced earlier, we exclude the other possible arrangement, with which the party-list election systems - and, indeed, any other such system - are incompatible: the majority election system.

There would seem to be no doubt (and no-one, in our Assembly, has so far tried seriously and objectively to deny it) that the proportional system is by far superior to the other system, if only because of the historical fact that the majority system, which earlier was almost universally applied, has now been replaced almost everywhere by the proportional system. Arising from historical developments, from the way leadership groups have evolved and from the increasing spread of the democratic system, the electoral expression of this unquestionably positive change has been the choice of proportionality over the majority system that was earlier in force. Consequently, the electoral reform, because it is an expression of these favourable developments, must also be regarded as an improvement.

19. It has to be recognized that in some of the Member States there have been changes in the opposite direction, in other words, a return from the proportional to the majority system.

In the first place, however, this 'reversion' has generally been part of a total transformation of the political system of the country concerned, which has had to face radical changes in the role of the parties and in that of Parliament, whereas the same developments have not occurred in those countries in which the 'pure' majority system

is defended at all costs. In addition, such a change of system has been found to be justified by the need to strengthen the executive at a specially difficult time in a particular country's history.

Such a need does not arise in the Community institutions, since there is no Community 'government' which is answerable to Parliament and which has therefore to be sustained by large and effective majorities.

On the contrary, the nature of the Community institutional system is altogether different, as, indeed, is the role of Parliament.

20. We referred earlier to the constituent power vested in Parliament by Article 138(3) of the EEC Treaty, a power that it is now exercising in its deliberations on the draft convention on direct elections. Compared to the other powers conferred on the Assembly, this is an exceptionally important one, which probably derives from the fact that Parliament has a greater interest than the other institutions in the electoral system by which it will ultimately be re-shaped.

Throughout its existence Parliament has always sought to use the fact of its representativeness in terms of nationalities and political groupings to the best possible advantage: suffice it to say, in this connection, that considerable importance has always been attached to the function of the political groups.

In order to ensure that all the nationalities are substantially represented, mechanisms have rightly been introduced to increase the number of Members elected from the smaller countries. The aim of the Rules of Procedure, and more especially of parliamentary practice, is to achieve a balance - not always perfect but always sought after - between nationalities and political groups.

21. In studying a possible uniform electoral system¹, the committee responsible has drawn attention to the existence of ideal systems, which would be neither proportional nor majority systems but would combine elements of the two (hybrid systems).

An appraisal of the examples given suggests that some of them would be quite inappropriate, since 'it is easier to square the circle than to create a uniform electoral system which reconciles the proportional system with the majority one'². Indeed, hardly any of the hybrid systems

¹See draft report by Mr J. Seitlinger on behalf of the Political Affairs Committee, on the basic elements of a uniform electoral system (PE 64.569/rev.IV).

²See speech by Mr Mario Scelba during the sitting of 14.1.1975 - Debates No. 185, January 1975, p. 62.

described¹ would be satisfactory. In this connection, the following observations are called for:

- (a) For elections to the Italian Senate the single-member majority system applies only in constituencies in which a candidate obtains at least 65% of the votes cast; if no candidate secures this percentage, all the rules of the proportional system are applied. It appears that in the past this condition has been fulfilled in four or five constituencies (315 senators are elected in Italy). For some legislative periods (at least since 1963) this has happened in one or two cases only. We may conclude, therefore, that these are insignificant exceptions to the rule of proportionality;
- (b) Even if provision is made for the allocation of some seats in single-member constituencies, the system of election to the Bundestag of the Federal Republic of Germany is in fact a proportional system (the only limitation being the 5% electoral threshold), since all the seats are allotted in accordance with the d'Hondt method, which is typical of the proportional system. The sole purpose of the mechanism described in the abovementioned document is to give the elector a choice between several candidates;
- (c) The system applied in Ireland pursues the same goal and is therefore a proportional system;
- (d) For elections to the French National Assembly the single-member, majority system is used, with adjustments being required by the introduction of two ballots, during the second of which the number of candidates is reduced by statutory provision, normally to two.

22. However, as we have said, these examples are totally inappropriate, both because of the inaccuracy of the claim that they typify the 'hybrid system' and because they are relatively unimportant to the discussion in progress.

In all the countries we have been considering, there is a marked difference between the system that was used for electing the European Parliament and that used for elections to the national parliaments. Italy used a simple vote-by-list proportional system. The Federal Republic of Germany and France used a similar proportional system, adjusted to include the 5% threshold clause. With the exception of the United Kingdom, all the other Member States adopted proportional electoral systems,

¹PE 64.569/rev IV, p.12 et passim

in some cases adjusted to include the clause eliminating lists receiving fewer than 5% of the votes cast. If, therefore, the object was to obtain an 'average' from the 'basket' of regulations in force, the reference data, and hence the conclusion, would have to be different.

23. The uniform procedure should therefore be geared to proportional representation, which, as we have seen, is already very widely used under national electoral law.

The procedure should be completely uniform. This, apparently, would not have been the view of the members of the working party, chaired by Mr Dehousse, which drew up the draft convention for the direct election of the European Parliament that was adopted by the Assembly on 17 August 1960 but not followed up by the Council.

The short study containing 'a compendium of the detailed studies carried out by the working party appointed by the Assembly'¹ maintains that the term 'uniform procedure' should be interpreted as meaning 'an electoral law that is fundamentally the same in all the Member States'², and then goes on to assert that 'uniformity is not synonymous with identicalness. It will thus be possible for the convention to lay down uniform rules, even if some differences continue to exist between the national implementing laws'³.

Even if these views are endorsed - and they are not endorsed in this opinion - it has to be acknowledged that they do not permit substantial differences of the kind associated with the electoral system (proportional representation or the majority system).

It is easy to refute these opinions, if only because they were used by the authors to defend their draft convention, in which they accepted the proposal contained in Article 138(3) of the EEC Treaty, subject to the corrections which they considered to be justified.

24. In 1960, then, Parliament decided that direct elections and the uniform electoral procedure should be dealt with as entirely separate issues. This decision was totally contrary to the letter of the Treaty, had no legal justification and was motivated solely by reasons of political expediency. It was nevertheless maintained in the draft convention of 1975 and the Council Act of 1976.

¹European Parliamentary Assembly: Towards the direct election of the European Parliamentary Assembly - October 1960

²Idem, page 27

³Idem, page 28

The authors of the first draft convention were evidently convinced that 'the concept of a transitional stage, which is not mentioned in the Treaties, has made it possible to surmount difficulties for which there could be no immediate solution'¹. Apart from claiming, as we have seen, that the electoral procedure could be less than completely uniform, the authors of the 1960 draft based their opinion on the legitimacy and practicability of a transitional stage on the assumption that, in drawing up the convention on the direct election of Parliament, they were in effect proposing a reform of the Treaty.

This is clearly stated, and the causes and the consequences are just as clearly stated. The 1960 working party says that 'it should be made clear that the working party has not kept too strictly to the letter of the Treaties. Since its brief was to review the various options, it did not feel that the arguments deriving from a literal reading of the texts should take strict precedence over considerations of a political nature'².

This attitude was also taken by the authors of the 1975 draft, who even went so far as to recommend that Article 138(3) of the Treaty of Rome should be deleted³.

There can be no doubt that this approach, which undoubtedly constituted the legal basis of the limited and transitional decisions taken at the time, was totally wrong, since the proposals drawn up by Parliament and the subsequent deliberations by the Council, far from recommending an amendment of the Treaties, actually follow them to the letter. Nor can there be any doubt that the provisions of the Treaties are binding and not open to debate.

25. In 1975 and 1976 attempts were made to remedy this blatant infringement of the Treaties. As we have seen, Parliament even proposed that the relevant Treaty provisions should be rescinded and that the convention and the resulting Act should instead constitute the regulations governing direct elections. This proposal was not accepted.

In adopting the 1976 Act the Council, for its part, annulled the first two paragraphs of Article 138 of the EEC Treaty and gave the future elected Assembly the task of drawing up a proposal for a uniform electoral procedure, while stipulating that, pending the entry into force of that procedure, 'the electoral procedure shall be governed in each Member State by its national provisions' (see Article 7 of the Act).

¹Towards the direct election, p. 28

²Idem, p. 28

³See Article 15(1) of the draft convention.

This ruling was widely interpreted to mean that the work of drawing up a uniform electoral procedure should be completed during the present legislative term. The Assembly formally accepted this interpretation, specifying that Parliament 'shall draw up a proposal for a uniform electoral system by 1980 at the latest' (Article 7(1) of the draft convention).

Be that as it may, it is certain that Parliament and the Council must now confine their attention to the task of drawing up a uniform electoral procedure, because the power to decide on national procedures is vested in the individual Member States and because, with the repeal of paragraphs 1 and 2 of Article 138 of the EEC Treaty, the basic principles on which further legislation can be built are now lacking.

Moreover, it is clear that there are two stages and not more: the national electoral procedures and the uniform procedure. This suggests the following conclusions:

- in conducting the present debate, Parliament is fulfilling the mandate conferred on it by the Act of 20 September 1976;
- its proposals must relate to the uniform electoral procedure;
- in fulfilling this mandate, Parliament cannot introduce further intermediate 'stages'.

26. In the light of these conclusions, the suggestion that it is unnecessary to introduce a fully uniform electoral procedure is unacceptable. Moreover, the view that the uniform procedure can be arrived at 'in several stages'¹ is mistaken, since it has no legal basis and, as we have seen, is invalidated by the relevant provisions.

It is worth pointing out in this connection that, according to the authors of the first draft, 'the introduction of the concept of a transitional period has made it possible to overcome the many difficulties arising from the conflict between an ideal conception of the nature of the tasks of the elected Parliamentary Assembly and the need to take account of the difficulties and the exigencies of the political situation'². It has to be realized, however, that at the time this was written the political problems encountered sprang from substantial differences in the attitude of the Member States to the European Economic Community (which, however, does not justify the view that they were entitled to ignore the text of the Treaty). Today, however, the Member States are apparently

¹See PE 64.569/rev. IV, page 9

²Towards the direct election, p. 11

being forced to seek a legally indefensible compromise to satisfy the needs (which are neither clearly explained nor comprehensible) of a single Member State.

Furthermore, the opinion put forward in the document now before the Political Affairs Committee runs counter to the basic Treaty provisions, not only as regards the proposed procedure, but also as regards the content of the electoral system¹.

After claiming that it will be possible to introduce the uniform electoral procedure gradually, the draft report under consideration suggests that, as a first step, the proposals to be submitted for a uniform procedure should relate only to the electoral system, the right to vote and the right to stand for election.

However, presumably to avoid confusion, the electoral system (which should be identified with the electoral procedure and is, in any case, by far the most important part of it) is immediately afterwards defined in terms that diminish its importance and have no legal basis.

27. An electoral system which 'should resemble as far as possible the models tried in the individual States and trusted by their citizens'² is not a uniform system. Perhaps it should be, but that is a moot point. However, given the differences between the systems used in the various States, which, when compared, seem almost impossible to reconcile, to claim that the uniform electoral system should meet such criteria is tantamount to preventing its introduction.

Then there is no explanation why the general and rather vague objective of 'ensuring that equal weight attaches to each vote'³ should be preferred to the principle of 'one man one vote'.

Equally incomprehensible is the reason for proposing that representation in Parliament should be limited to the 'main political forces'. This proposal is purposely vague because, as we have seen, some of the national electoral laws tend to promote limited representation, if only by adopting a vote-by-list proportional system incorporating the 5% threshold clause, which is unacceptably discriminatory, even though it affects a small number of candidates. However, the legislation of one Member State virtually guarantees representation for the two main parties only, since it operates an exclusion threshold that is almost three times higher than that of the other systems and thus strikes a blow at firmly

¹See PE 64.569/rev. IV, p. 10

²Idem

³Idem

established and well supported parties which are duly recognized by influential groups within our Parliament.

28. Apart from the problems of political assessment raised by this proposal in the report under consideration, there are other problems of a legal nature.

We are familiar with the difference between parties admitted to elections and parties represented on the basis of the selective mechanisms operated by the electoral system. But, when the representation of the two leading parties is assured in advance and all the other parties are excluded, the two concepts are likely to become confused. If the mechanisms proposed in the two alternative systems put forward for discussion by the committee responsible were intended solely to ensure that in one of the Member States representation continued to be restricted to the two leading parties, it is obvious that the excluded parties would be faced, not only with the problem of their representation in Parliament, but also with the problem of their admission to the elections. Thus, once again, various essential features of the electoral system, which would therefore characterize the uniform procedure, would depend on decisions taken at national level. This would mean maintaining the present provisional mechanism which - being such - refers the solution of these key problems to national legislation.

The uniform procedure must actively concern itself with the problems of the admissibility or representation of parties, for if matters of such importance were left to the discretion of the individual States, there would be no hope of the procedure being uniform. However, the rapporteur of the Political Affairs Committee recommends the adoption of hybrid systems, of which there might be many variations and from among which the Member States would be free to choose. The systems envisaged range from proportional systems providing for the election of one quarter of the Members under the majority system, to majority systems providing for the election of one quarter of the Members under the proportional system.

29. The draft report before the committee responsible proposes two alternative models¹, the first connected to the Geyerhahn system adopted in the Federal Republic of Germany for the election of the Bundestag, the second to the proportional system: but this connection is only apparent.

The first model (which seems to be preferred by the rapporteur) in fact contains many key elements of the majority vote system, whereas, as we pointed out earlier, the system used for the election of the Bundestag

¹See PE 64.569/rev. IV, p. 7.

is proportional in every respect, except for the 5% threshold clause.

Then again, the second model is not really proportional, since a minimum of three and a maximum of nine representatives would have to be elected in each of the constituencies into which each Member State would be divided (see Article 2(2) of the draft report).

It has been estimated¹ that in three-seat constituencies (the minimum considered in the proposal) with five competing parties the 'representation threshold (i.e. the minimum percentage of the votes that a party would have to obtain to win the first seat) would be 14.3% and the exclusion threshold (i.e. the maximum percentage of the votes that a party could obtain without winning a seat) would be 25%, whereas in a ten-seat constituency (one more than the maximum considered in the proposal under consideration) the representation threshold would be 7.1% and the exclusion threshold 9.1%' : in other words, the two-party system is once again proposed.

This was also the objective of those who formulated an identical proposal - subsequently rejected - in the German Federal Republic. The only difference is that in this instance the objective was clearly explained by the authors of the proposal.

According to the writer we have just quoted, the criteria envisaged would conflict with the constitutional principles of some Member States (Belgium, Italy, Luxembourg, the Netherlands and the Federal Republic of Germany).

It seems to be the case that the only obstacle to the introduction of a uniform electoral procedure is the desire to enforce the adoption of selective criteria for the election of the European Parliament which are influenced by certain trends in European public opinion and would therefore distort the election results.

However, we may well wonder whether this is the real objective, disguised, as it were, by the exaggerated importance attached to the need to accommodate the mechanisms used in one particular Member State; or whether, on the contrary, this need is the main preoccupation, since it would allow the difficult consequences of widespread representation to be avoided.

¹E. Lanchester: Critical observations on a proposal for a European electoral system - Rivista trimestrale di diritto pubblico, Milan 1980, No. 3, p. 960

The answer is not, however, important, for in either case any possible proposal must be brought within the limits of Community law, as well as within the limits imposed by most of the Member States.

V. NEED FOR A FORMULA APPLICABLE TO THE ENTIRE COMMUNITY

30. Having thus established that the proportional system appears to be the most suitable for the direct election of the European Parliament because of the guarantee of representativeness it offers the electorate, it is not easy to select the formula that would be most in keeping with the aims and the specific characteristics of the European election.

However, this choice is of decisive importance, since the response of the electorate and its active participation in the European elections will depend on the type of mechanism ultimately applied in all the Member States. The distrust aroused in the electorate by a system that allowed electoral manoeuvres and manipulation would have damaging consequences for the process of European integration.

31. The mechanisms used to correct certain effects of the proportional system are numerous and are generally applied to systems that combine a variety of different elements. For the election of the European Parliament, however, these mechanisms should be discouraged, because they could not be satisfactorily applied to the entire territory of the Community. We have only to cite, in this connection, the method of using the 'remainders' in a single central constituency, which allowed the recovery of votes insufficient to make up the quotient, which the individual lists had to relinquish in the various constituencies.

Since European parties do not as yet exist, the various possible combinations of criteria for distributing votes, which traditionally favour the strongest groups, are also to be discouraged.

32. The convention should therefore come out in favour of the typical proportional system based on lists of candidates drawn up in advance, in other words, the list system of proportional representation. However, assuming that this system was adopted, the method of distributing seats among the various lists and the rules governing the choice of candidates to be included on the lists to which seats are allocated would have to be made clearer.

A common feature of the various methods of applying this system is the need to calculate the 'electoral quotient' (which is obtained by dividing the total number of valid votes cast in a given area by the number of seats

allocated to it) and the total number of votes cast for a list (which is the total number of valid votes obtained by each of the lists of candidates presented in the constituency). The total number of votes cast for a list is divided by the electoral quotient to obtain the number of representatives on each list that has obtained the quotient. In other words, the number of representatives on each list is equal to the number of times the total number of votes cast for it contains the electoral quotient.

33. Of the various methods of allocating the 'remainders', the most suitable appears to be the d'Hondt or 'common divisor' method, under which the number of representatives allocated to each electoral list is obtained by dividing the number of votes cast for the list by the electoral divisor.

34. The adoption of the list system of proportional representation raises the problem of which candidates on each of the lists to which seats have been allocated should be declared elected. The best known solutions to this problem consist in the use of the 'blocked or rigid list', on which the candidates' names appear in order of preference, so that those at the top of the list are elected without the elector being able to influence the choice, or the 'preference vote' list, which allows the elector to cast two votes, one for the list and the other - optionally - for the candidate or candidates he prefers. In the latter case, the order of candidates on each list is determined by the total number of preference votes cast for each of them.

35. The preference may be expressed by the electorate more or less freely, depending on the system adopted. The system which offers most freedom is the vote-splitting system, which allows the elector to cast his preference vote, not only for the candidates on the list of his choice, but also for one or more of the candidates included on different lists. This practice is allowed, for example, under the Luxembourg electoral law.

The vote-splitting system should, however, be ruled out because it seems contradictory to allow one vote to be cast for a list comprising candidates of one political group and a second vote to be cast for candidates belonging to different political groups.

36. The convention should therefore establish a formula applicable to the entire Community, which might be covered by the following clause:

'The Members of the European Parliament shall be elected in accordance with the list system of proportional representation. The seats shall be distributed among the lists in accordance with the d'Hondt method. The elector shall cast his preferential vote for one or more candidates, depending on the size of the constituency and the number of candidates allocated to each list'.

VI. FURTHER PROVISIONS IN THE CONVENTION

37. In addition to the provisions and principles discussed above, the new convention should endorse many of the criteria contained in the earlier convention and taken over by the Council Act of 20 September 1976. In particular, it should incorporate the substance of Article 10 of the Act concerning the conditions of accession of the Hellenic Republic and the adjustments to the Treaties¹, which alters the composition of the Assembly by adding 24 Greek Members.

38. The convention should also be brought into line with the provisions of the Act of 20 September 1976 relating to the duration of the mandate (Article 3), voting (Article 4) and the compatibility and incompatibility of the functions of elected Members (Articles 5 and 6).

39. Furthermore, it should endorse the substance of Article 8 of the Act, which stipulates that 'no one may vote more than once in any election', as well as that of Articles 9 and 10, which concern the date of the election, the rules governing the poll and the constituent meeting of the new Parliament.

40. Articles 11 and 12 of the Act of 20 September 1976 confer certain powers on the Member States, pending the entry into force of the uniform procedure. Naturally, these powers should be revoked, once this resolatory condition has been met. Except where vacancies arise from the application of national provisions (insofar as they continue to apply), the convention should make suitable provision for filling seats that fall vacant during the five-year legislative term.

41. Finally, as regards the final decision in cases where the election of candidates to the European Parliament is contested, it should be noted that in most of the Member States the responsibility for validating the election result rests with the national Parliament. The convention should introduce a similar provision, conferring on the European Parliament the power to give the definitive ruling in disputes and claims arising from the European elections. The desirability of such a provision is confirmed by Article 11 of the Act of 20 September 1976.

¹OJ No. L 291 of 19.11.1979

VII. CONCLUSIONS

42. The concept of an 'election by direct universal suffrage in accordance with a uniform procedure in all Member States' calls for the introduction, in the Community, of an electoral system based on universally applied principles.

The uniform electoral procedure should therefore be free of differences that might adversely affect the representativeness of the European Parliament.

43. The draft convention which Parliament is drawing up in application of Article 21(3) of the ECSC Treaty, Article 138(3) of the EEC Treaty and Article 108(3) of the EAEC Treaty should expressly endorse the general principles underpinning a uniform electoral procedure (the right to vote, the right to stand for election, compulsory preliminary formalities, assignment of seats which have become vacant, etc.). On the other hand, national provisions of an executive nature and those relating to the definitive or temporary loss of the right to vote and stand for election following judgements handed down under national criminal law would remain in force.

44. Without prejudice to the observations made in paragraph 42 above, the Legal Affairs Committee accordingly endorses the principles set out in the draft Seitlinger report, rev. IV, part A (see PE 64.569/IV, paragraph 20).

The electoral system for elections to the European Parliament should guarantee a distribution of seats which broadly reflects the percentages of the votes cast for the parties. This would enable Parliament to remain consistent with its established practice of maximizing its representativeness both in terms of nationalities and in terms of political groupings.

45. On the basis of the observations set out above, the Legal Affairs Committee requests the Political Affairs Committee to take account of the suggestions made in paragraphs 9 to 15 of this opinion, either by including appropriate provisions in the draft convention or by making reference to the Act of 20 September 1976.

MINORITY OPINION

'A minority of Members of the Legal Affairs Committee is of the opinion that the uniform electoral system should be based on the fullest possible proportional representation since 9 out of the 10 Member States already use a proportional system for elections to the European Parliament.

It therefore believes that the principles set out in paragraph 20 of the draft SEITLINGER report rev. IV/A should not be endorsed.'

THE ELECTORAL LAWS APPLIED FOR THE FIRST ELECTION OF THE EUROPEAN PARLIAMENT

- BY COUNTRY -

1. Belgium

(a) Legal bases

Belgium's European elections Bill was adopted by the Chamber of Deputies on 3 November 1978 and by the Senate on 14 November 1978; it entered into force on 16 November.

(b) Main features of the law

(aa) Seats

11 out of Belgium's 24 seats go to French-speaking regions (including the German-speaking region) and 13 to the Flemish-speaking region. Candidates must opt for one of these two regions.

(bb) Electoral system

- Proportional representation
- 2 electoral colleges (French/German-speaking region, Flemish-speaking region)
- Seats allocated by the d'Hondt system in the three constituencies; inhabitants of Brussels vote for a list from one of the linguistic regions.
- Entitlement to vote:
 - Belgian citizens
 - 18 years or over
 - also Belgians resident abroad, provided that their main place of domicile (résidence principale) is still in Belgium. They may vote by proxy.
- Obligatory vote
- Eligibility for election:
 - 21 years or over
 - Belgian nationality
 - Domiciled in Belgium
- Nominations:
 - Lists of candidates proposed either
 - by at least 5 Members of the Belgian Parliament belonging to one linguistic community, or
 - by signatures of at least 1,000 registered voters in each of the 5 provinces of the electoral region chosen.
- Order of names on lists: Each voter has one vote which he can give either to a list or to the candidate of his choice on the list (therefore possibility of changing order of names on lists)
- Filling vacant seats: Substitute candidates
- Election day: 10 June 1979 (Sunday)
- Rules on election campaign: No special provisions for the European elections
- Validation of elections: Chamber of Deputies

2. Denmark

(a) Legal bases

Denmark's electoral law was adopted by the Parliament on 2 December 1977 and entered into force on 1 January 1978.

(b) Main features of the law

(aa) Seats

Denmark has 15 of the 16 Danish seats and Greenland one. The Faroe Islands are not taking part in the election.

(bb) Electoral system

- Proportional representation
- One single national constituency
- Seats allocated by the d'Hondt system
- Entitlement to vote:
 - Danish citizens
 - 18 years or over *
 - also Danish citizens resident in other EEC States
- Eligibility for election:
 - Danish citizens
 - 18 years or over *
- Nominations: Lists (maximum 20 candidates) proposed by political parties (or by several parties jointly). If the party is not represented in the Folketing, its list must be supported by electors numbering 2% of the total votes cast at last election.
- Order of names on lists: Each voter has one vote which he can give either to the list or one candidate of his choice from the list (therefore possibility of changing order of names on lists)
- Filling vacant seats: Next candidate on the list
- Election day: To be decided by the Minister for Home Affairs (Thursday, 7 June)
- Rules on election campaign: The Minister of Justice may issue rules to prevent disturbances of public order.
- Validation of election: By the Danish Parliament

* Following the referendum of 20 September 1978

3. The Federal Republic of Germany

(a) Legal bases

The German electoral law was adopted on 16 March 1978 by the Bundestag (Bundesgesetzblatt I of 21 June 1978, p.709). It entered into force on 16 June 1978.

(b) Main features of the law

(aa) Seats

Of the 81 German seats three go to Berlin (West). These three seats to be occupied by the Lower House (Berlin Parliament).

(bb) Electoral system

- Proportional representation
- The electoral area is either the whole of the Federal Republic (where a party submits a single Federal list) or the individual Länder (where Land lists are submitted).
- Seats allotted at Federal level according by the d'Hondt system. When a party presents lists for the Länder the total of seats won by that party are divided according to the d'Hondt procedure among the different regional lists.
- Entitlement to vote:
 - German citizens
 - 18 years or over
 - also Germans resident in EEC countries
- Eligibility for election:
 - German citizens
 - 18 years or over
- Nomination of candidates:
 - political parties and
 - political associations organized on a membership basis (e.g. trans-national party federations)

If the party or association is not already represented in the Bundestag or Landtag with at least five seats, nominations must, in addition, be supported by 4,000 signatures, in the case of a Federal list, or 2,000 signatures in the case of a Land list.

-Order of names on the list:

The order in which names appear on the lists is decided by the parties and determines the order in which seats are allocated.

- 5% clause: Lists which receive fewer than 5% of the votes do not qualify for the allocation of seats.
- Vacant seats: Filled by 'substitutes', who can be designated at the same time as each candidate on the list; in the absence of any substitute, by the next candidate on the list.
- Election day: To be decided by the Federal Government (Sunday, 10 June)
- Rules on election campaign: Parties receive a sum in proportion to their share of the votes from an election campaign expenses fund totalling approx. 150 mio DM (3.50 DM per voter).
- An agreement between the parties limits election campaign expenditure
- Validation of election: Bundestag. Its decision can be contested in the Federal Constitutional Court.

4. France

(a) Legal bases

The French electoral law was adopted on 30 June 1977 (Law No. 77-729, Journal officiel of 3 July 1977, pp 35-79). It entered into force on 7 July 1977.

(b) Main features of the law

(aa) Seats

France has 81 seats. These Members of Parliament also represent France's overseas territories.

(bb) Electoral system

- Proportional representation
- The whole State forms a single electoral area
- Votes are counted and seats allocated for the entire national territory. Seats are distributed among the individual lists by the d'Hondt system.
- All French citizens aged 18 or over are entitled to vote. French citizens resident abroad can vote at the French consulates (as in presidential elections).
- To be eligible for election candidates must be French citizens of 23 years or over.
- No rules laid down for the nomination of candidates. Nominations must be submitted by the candidates at the head of the list or their representatives. A deposit of 100,000 Ff is required for each list (to be forfeited if fewer than 5% of the votes are obtained).
- Seats allocated according to the order of names on the list. Voters have a single vote to be given to a list. Order of names on the lists cannot be changed.
- Lists receiving fewer than 5% of the votes cast will not be allotted any seats.
- Vacant seats go to the next candidate on the list.
- The law on direct elections contains no special provisions regarding the election day. In France polling-day is traditionally a Sunday.
- Rules on the election campaign:
Any French political parties or nominated candidates are allowed to take part in the election campaign. This will begin two weeks before election day. During this period broadcasting time will be made available on radio and

television. Parties winning at least 5% of the votes will have part of their campaign expenses refunded.

- Validation of election: The Council of State (not the Constitutional Council as in the case of national elections).

2000

a) Legal bases

The electoral law of Greece was adopted by the Parliament on 2 July 1981, and entered into force on 20 July 1981.

b) Main features of the law

(aa) Seats

Greece has 24 seats

(bb) Electoral system

- Proportional representation
- One single national constituency
- Seats allocated by the d'Hondt system
- Entitlement to vote:
 - Greek citizens
 - 20 years or over
 - also Greek citizens living abroad, who must return to Greece to vote
- Eligibility for election:
 - Greek citizens
 - 26 years or over
 - no residence qualification
- Nominations: Lists (maximum 24 candidates proposed by parties or political groupings. No candidate to be entered on more than one list.
- Order of names on lists: Parties or political groupings determine the order of names on list.
- Filling vacant seats: Next candidate on the list.
- Election day: To be fixed by Presidential decree (Sunday, 18 October 1981)
- Rules on election campaign: Campaign to last 30 days
- Validation of election: By the court responsible; objections may be heard by the Special Supreme Court.

6. Ireland

(a) Legal bases

The Irish electoral law (European Assembly Elections Act 1977) was adopted by both Houses of Parliament on 8 December 1977 and entered into force on 9 December 1977.

(b) Main features of the law

(aa) Seats

The 15 Irish Members of Parliament will be elected in four constituencies with 5, 4, 3 and 3 Members, respectively.

(bb) Electoral system

- Proportional representation
- 4 constituencies
- The traditional single transferable vote system will be used. Candidates will be listed in alphabetical order on the ballot paper. Each voter can cast his vote for one candidate and in addition indicate in order of preference the candidates to whom his vote should be given if the candidate of his first choice has already received more than the number of votes necessary for election, or has obtained too few votes and so has been eliminated
- Entitlement to vote: Irish citizens resident in Ireland and at least 18 years of age; also citizens of other EEC States resident in Ireland.
- Candidates must be Irish citizens of 21 years or over.
- Candidates may nominate themselves, or be nominated by a third party. For each candidate a deposit of 1,000 Irish pounds must be paid; this is refunded if the candidate receives at least one third of the votes required for election.
- The alphabetical order in which candidates are listed on the ballot paper does not affect the order in which seats are allocated.
- There is no 'threshold clause'.
- Vacant seats are filled by the Irish Parliament. If the former occupant of the seat belonged to a party, that party has the right to propose a successor.

- Polling traditionally takes place on a weekday; the government has announced its intention of holding the election on 7 June 1979 (together with local elections).
- No special rules on the election campaign.
- Electors or candidates can challenge the election results in the High Court.

7. Italy

(a) Legal bases

The electoral law was adopted by the Senate on 2 December 1978 and by the Chamber of Deputies on 18 January 1979. It entered into force on 24 January 1979

(b) Main features of the law

(aa) Seats

Italy will have 81 seats.

(bb) Electoral system

- Proportional representation
- For direct elections the country is divided into five constituencies, (North-West, North-East, Centre, South and Islands).
- Votes are counted at national level using a system of pure proportional representation. Seats are allocated by a regional distribution arrangement.
- All Italian citizens of 18 years or over are eligible to vote. Italian citizens resident in another EEC country may vote at the Italian consulates. Italians from third countries can vote in their home districts in Italy.
- Candidates must be Italian citizens of at least 25 years of age.
- Nominations are submitted by the parties or individuals. In the case of individual nominations or nomination by a party not represented in Parliament, the nomination must be endorsed by at least 30,000 electors.
- Voters can give their vote to three candidates of their choice in Constituency 1 (North-West), two candidates in Constituencies 2, 3 and 4 and one candidate in Constituency 5. There is special provision for preferential votes in areas with linguistic minorities.
- No provision for a 'threshold clause'.
- Vacant seats are filled by the next candidate on the list.
- Election day is traditionally a Sunday and Monday morning. The direct elections will be held on a Sunday (10 June).
- Within set limits, election campaign expenses are refunded.
- Validation of election: to be conducted in the courts; final appeal being to the Council of State and the Court of Cassation.

8. Luxembourg

(a) Legal bases

The Chamber of Deputies adopted the law on 21 February 1979 and it entered into force on 25 February 1979.

(b) Main features of the law

(aa) Seats

Luxembourg will have six seats.

(bb) Electoral system

- proportional representation
- single national constituency
- the votes are counted and seats allocated for the whole country by the d'Hondt system.
- Voters must be Luxembourg citizens resident in Luxembourg or another country of the Community and aged 18 or over. Voting is compulsory
- Candidates must be Luxembourg citizens over 21.
- The right to submit lists of nominations (max. 12 candidates) is not confined to parties. Lists must bear the signatures of 100 electors.
- Each voter has as many votes as the number of candidates to be elected. He can distribute these votes among the candidates on one list or vote for individual candidates on another list ('panachage'). Or he can simply vote for a list. In this way the order of candidates' names in the list may be changed.
- There is no 'threshold clause'
- Vacant seats are filled by the next candidate on a list.
- In Luxembourg polling normally takes place on a Sunday.
- Election results are validated by the Luxembourg Parliament.

9. Netherlands

(a) Legal bases

The Dutch electoral law was adopted by the Second Chamber on 5 September 1978, and by the First Chamber on 12 December 1978. It entered into force on 13 December 1978.

(b) Main features of the law

(aa) Seats

The Netherlands will have 25 seats.

(bb) Electoral system

- proportional representation
- a single national constituency
- votes are counted and seats allocated by the d'Hondt system on a national basis.
- Dutch citizens who have reached the age of 18 are eligible to vote. Dutch citizens resident in another EEC country may also vote, either in person or by proxy.
In addition citizens from other EEC countries resident in the Netherlands also have the right to vote, provided their home country has not granted them the right to vote.
- Candidates must be Dutch citizens of not less than 25 years of age.
- Candidates are nominated by political parties (25 signatures required). The lists can include up to 40 names. A deposit of 18,000 guilders is required when a list is submitted by parties not represented in the Second Chamber or the European Parliament.
- Each voter has one vote which he can give either to a list or to one candidate of his choice. In this way the order of names on the list can be changed.
- No provision for a 'threshold clause'.
- Vacant seats are filled by the next candidate on the list.
- The elections will take place on the Thursday of the electoral period.
- No special rules on the electoral campaign.
- Validation of election results by the Second Chamber of Parliament.

10. United Kingdom

(a) Legal bases

The European Assembly Elections Bill was passed by the House of Commons on 16 February 1978 and by the House of Lords on 4 May 1978. It entered into force on 5 May 1978.

(b) Main features of the law

(aa) Seats

The United Kingdom has 81 seats. These are divided among the different regions as follows:

England:	66 seats
Scotland:	8 seats
Wales:	4 seats
N. Ireland:	3 seats

(bb) Electoral system

Representatives from England, Scotland and Wales are elected according to the traditional majority vote system in individual constituencies. The three Northern Ireland representatives are elected by the same system as in Ireland i.e., on a proportional representation basis in a three-member constituency. For the selection of candidates, the single transferable vote system will be used (cf Ireland)

- The electoral areas are the different constituencies under the majority vote system on the one hand and Northern Ireland with proportional representation on the other.
- In those parts of the United Kingdom under the majority vote system the candidate who wins the highest number of votes is elected. In Northern Ireland seats are allocated according to the Irish system (qv).
- British and Irish citizens resident in the United Kingdom aged 18 years or over are entitled to vote. Contrary to the practice in national elections, Members of the House of Lords may vote. British citizens resident outside the country are not able to vote except in special cases (Government officials and members of the armed forces).
- Candidates must be British citizens of 21 years or over. Members of the House of Lords and clergymen may also stand for election.
- Candidates need not be nominated by a political party. Nominations in the constituencies must be endorsed by 30 electors. In addition a deposit of £600 must be paid which is forfeited if the candidate fails to obtain one eighth of the votes cast.
- No 'threshold clauses'.

- Vacant seats are filled by means of by-elections.
- The election day is fixed by the government. (Thursday)

- In contrast to national elections no special rules have been laid down for the European elections, with the exception of a limitation on campaign expenditure. There are plans to limit such expenditure in each constituency to £5,000 plus 2 pence per registered elector.
- Election results can be contested in the High Court.

Vote counting methods

The many vote counting methods used can be divided into two main types, on which a number of various methods have been based. These are the quota method and the largest average method. The basic difference between these two methods lies not so much in the method of calculation - both use the principle of division - as in the result.

In their commonest forms quota methods do not usually result in the allocation of all the seats. A number of seats are left over, which then have to be allocated by means of another method of calculation. Divisor methods, on the other hand, invariably permit the allocation of all seats.

The quota method

This method is based on the principle that a seat should be allocated for a given number of votes. The quota is a quotient: the dividend is as a rule the number of valid votes cast in the constituency, while the divisor can vary. It is either equivalent to the number of seats to be allocated in the constituency or this number plus one, two, three, etc. An increase in the divisor produces smaller quotas. Consequently, the larger the divisor, the larger the number of seats which can be allocated by the quota method.

The commonest type of quota method is the Hagenbach-Bischoff method, the quota being obtained by dividing the number of votes cast by the number of seats to be allocated in the constituency plus one.

Examples:

In a particular constituency ten seats are to be allocated; 330,000 valid votes have been cast for five parties as follows:

Party A	98,000 votes
Party B	65,000 votes
Party C	90,000 votes
Party D	50,000 votes
Party E	27,000 votes

Applying the simple quota method the quota would be

$$\frac{330,000}{10} = 33,000$$

Parties	A	B	C	D	E
Votes	98,000	65,000	90,000	50,000	27,000
<u>divided by</u> <u>quota gives</u>	<u>2 seats</u>	<u>1 seat</u>	<u>2 seats</u>	<u>1 seat</u>	<u>0 seats</u>
Remainder	32,000	32,000	24,000	17,000	27,000

Annex (Vote counting methods I)

Vote counting methods (cont.)

Only six of the ten seats can be allocated by this method; the remaining four seats must be distributed by a second method.

If the Hagenbach-Bischoff method is used, the quota is:

$$\frac{330,000}{10 + 1} = 30,000$$

Parties	A	B	C	D	E
Votes	98,000	65,000	90,000	50,000	27,000
divided by					
quota gives	3 seats	2 seats	3 seats	1 seat	0 seats
Remainder	8,000	5,000	0	20,000	27,000

Only nine of the ten seats can be allocated by this method; the remaining seat must be allocated by a second method.

Largest average methods (also known as divisor methods)

Here the number of votes obtained by the parties in the constituency or electoral district is divided by a series of numbers (divisors). The seats are allocated according to the size of the resulting quotients.

The various methods use different series of divisors as follows:

d'Hondt method	1 - 2 - 3 - 4 -
Imperiali method	2 - 3 - 4 - 5 -
Sainte-Laguë method	1 - 3 - 5 - 7 -
Adjustment method or modified Sainte-Laguë method	1.4 - 3 - 5 - 7 -
Danish method	1 - 4 - 7 - 10 -

Examples:

Ten members are to be elected in a given constituency; 330,000 valid votes have been cast for five parties as follows:

Party A	98,000 votes
Party B	65,000 votes
Party C	90,000 votes
Party D	50,000 votes
Party E	27,000 votes

Vote counting methods (Cont.)

The d'Hondt method produces the following results:

Divisor	Party A	Party B	Party C	Party D	Party E
1	98,000 (1)	65,000 (3)	90,000 (2)	50,000 (4)	27,000 (9)
2	49,000 (5)	32,500 (8)	45,000 (6)	25,000 (10)	13,500
3	32,656 (7)	21,656	30,000	16,666	9,000
4	24,500	13,000	22,500	12,500	7,250

The Imperiali method produces the following results:

Divisor	Party A	Party B	Party C	Party D	Party E
2	49,000 (1)	32,000 (4)	45,000 (2)	25,000 (6)	13,500
3	32,656 (3)	21,666 (9)	30,000 (5)	16,666	9,000
4	24,500 (7)	16,250	22,500 (8)	12,500	7,250
5	19,600 (10)	13,000	18,000	10,000	5,400

The Sainte-Laguë method:

Divisor	Party A	Party B	Party C	Party D	Party E
1	98,000 (1)	65,000 (3)	90,000 (2)	50,000 (4)	27,000
3	32,656 (5)	21,666 (7)	30,000 (6)	16,666 (10)	9,000
5	19,600 (8)	13,000	18,000	10,000	5,400

The adjustment method:

Divisor	Party A	Party B	Party C	Party D	Party E
1.4	70,000 (1)	46,428 (3)	64,285 (2)	35,714 (4)	19,285 (9)
3	32,656 (5)	21,666 (7)	30,000 (6)	16,666	9,000
5	19,600 (8)	13,000	18,000 (10)	10,000	5,400

The Danish method:

Divisor	Party A	Party B	Party C	Party D	Party E
1	98,000 (1)	65,000 (3)	90,000 (2)	50,000 (4)	27,000 (5)
4	24,500 (6)	13,000 (9)	22,500 (7)	12,500	7,250
7	14,000 (8)	9,285	12,857 (10)	7,142	3,857

Annex (vote counting methods III)