

Direct Elections Act

Decision and Act concerning the election of the representatives of the European Parliament by direct universal suffrage

Version as promulgated 20 September 1976 (Federal Law Gazette 1977 II, p. 733/734),
last amended by Council Decision of 25 June 2002 and 23 September 2002
(Federal Law Gazette 2003 II, p. 810; 2004 II, p. 520)

Decision

The Council -
composed of the representatives of the Member States and acting unanimously,
having regard to Article 21, paragraph 3 of the Treaty establishing the European Coal and Steel Community,
having regard to Article 138, paragraph 3 of the Treaty establishing the European Economic Community,
having regard to Article 108, paragraph 3 of the Treaty establishing the European Atomic Energy Community,
having regard to the draft from the European Parliament,
intending to implement the conclusions of the European Council of 1 and 2 December 1975 in Rome so that the election to the European Parliament can be held at a uniform time during the months of May - June 1978

has issued the provisions appended to this Decision, the adoption of which is recommended by the Council to the Member States in accordance with their respective constitutional regulations.

This Decision and the appended provisions shall be published in the Official Journal of the European Communities.

The Member States shall inform the Secretary General of the Council of the European Communities without delay about the conclusion of the procedures that are required for the adoption of the provisions appended to this Decision according to their respective constitutional regulations.

The Decision shall enter into force on the day of publication in the Official Journal of the European Communities.

**Act concerning the election of the representatives
of the European Parliament by direct universal suffrage**

Article 1

- (1) In each Member State, members of the European Parliament shall be elected on the basis of proportional representation, using the list system or the single transferable vote.
- (2) Member States may authorise voting based on a preferential list system in accordance with the procedure they adopt.
- (3) Elections shall be by direct universal suffrage and shall be free and secret.

Article 2

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

Article 3

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

Article 4

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

Article 5

- (1) The five-year term for which members of the European Parliament are elected shall begin with the opening of the first session after any election.

It shall be extended or reduced in accordance with Article 11, paragraph 2, subparagraph 2.

(2) The mandate of a Member shall begin and end at the same time as the period specified in paragraph 1.

Article 6

(1) The members shall cast their votes individually and personally. They shall not be bound by orders or instructions.

(2) Members of the European Parliament shall enjoy the privileges and immunities applicable to them by virtue of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities.

Article 7

(1) Membership in the European Parliament shall be incompatible with the capacity as:

- member of the Government of a Member State;
- member of the Commission of the European Communities;
- Judge, Advocate-General, or Registrar of the Court of Justice of the European Communities or of the Court of First Instance;
- member of the Board of Directors of the European Central Bank;
- member of the Court of Auditors of the European Communities;
- Ombudsman of the European Communities;
- member of the Economic and Social Committee of the European Economic Community and the European Atomic Energy Community;
- member of the Committee of the Regions;
- member of committees and bodies that by virtue of the Treaties establishing the European Economic Community and the European Atomic Energy Community manage funds of the Communities or perform a permanent direct administrative task;
- member of the Board of Directors or of the Management Committee or an official of the European Investment Bank;

- an active official or servant of the institutions of the European Communities or of the specialized bodies attached to them or of the European Central Bank.

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

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

- members of the Irish National Parliament who are elected to the European Parliament at a subsequent poll may have a dual mandate until the next election to the Irish National Parliament, at which juncture the first subparagraph of this paragraph shall apply;
- members of the United Kingdom Parliament who are also members of the European Parliament during the five-year term preceding election to the European Parliament in 2004 may have a dual mandate until the 2009 European Parliament elections, when the first subparagraph of this paragraph shall apply.

(3) Furthermore, each Member State can extend domestic incompatibilities pursuant to Article 8.

(4) The members of the European Parliament to whom paragraphs 1, 2 and 3 apply during the five-year period of election established in Article 5 shall be replaced according to Article 13.

Article 8

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

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

Article 9

At the election of members of the European Parliament, each voter may only vote once.

Article 10

(1) The election to the European Parliament shall be held on the date and at the times fixed by each Member State, the date falling within a uniform period of time for all Member States between a Thursday morning and the following Sunday.

(2) Member States may not officially make public the results of their count before the election in the Member State whose voters are the last ones to vote within the period of time stated in paragraph 1 is finished.

Article 11

(1) The period in which the first election shall take place shall be determined more precisely unanimously by the Council after a hearing of the European Parliament.

(2) The following elections shall take place during the corresponding period of time of the last year of the five-year period of election stated in Article 5.

If it proves impossible to carry out the elections in the Community during this period of time, the Council shall, at least one year before the end of the five-year period referred to in Article 5 and after a hearing of the European Parliament, unanimously determine another period of time that must be no earlier than two months before and no later than one month after the period of time established in the preceding subparagraph.

(3) Notwithstanding Article 139 of the Treaty establishing the European Community and Article 109 of the Treaty establishing the European Atomic Energy Community, the European Parliament shall assemble, without a convening being necessary, on the first Tuesday after the end of the month starting at the end of the period of time in which the elections took place.

(4) The powers of the outgoing European Parliament shall end with the first meeting of the new European Parliament.

Article 12

(1) The European Parliament shall scrutinize the mandates of its members. For that purpose, the European Parliament shall take note of the election results announced publicly by the Member States and shall rule on any contestations that may be presented on the basis of the provisions of this Act - with the exception of domestic provisions that are referred to therein.

Article 13

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

(2) Subject to the other provisions of this Act, each Member State shall lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office referred to in Article 5 for the remainder of that period.

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

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

Article 14

Should it prove necessary to take measures to implement this Act, the Council shall unanimously take these measures on the proposal of the European Parliament and after hearing the Commission after it has tried to reach an agreement with the European

Parliament in a Conciliation Committee of which the Council as well as representatives of the European Parliament are members.

Article 15

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

Annexes II and III shall form an integral part of this Act.

Article 16

The provisions of this Act shall enter into force on the first day of the month following the receipt of the last notifications stated in the Decision.

DONE at Brussels on the twentieth of September nineteen hundred and seventy-six.

Annex I

The United Kingdom shall apply the provisions of this Act solely to the United Kingdom.

Annex II

Declaration on Article 14

With regard to the procedure to be applied in the Conciliation Committee, it is agreed that the numbers 5, 6, and 7 of the procedure that has been established by the joint statement of the European Parliament, the Council and the Commission on 4 March 1975 shall be considered.