



Council of the
European Union

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INST 204
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FREMP 83

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976

COUNCIL DECISION (EU, Euratom) 2018/...

of ...

**amending the Act concerning the election of the members
of the European Parliament by direct universal suffrage, annexed to
Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the proposal from the European Parliament,

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

Having regard to the consent of the European Parliament¹,

Acting in accordance with a special legislative procedure,

¹ Consent of ... (not yet published in the Official Journal).

Whereas:

- (1) The Act concerning the election of the members of the European Parliament by direct universal suffrage¹ ('the Electoral Act'), annexed to Council Decision 76/787/ECSC, EEC, Euratom², entered into force on 1 July 1978 and was subsequently amended by Council Decision 2002/772/EC, Euratom³.
- (2) A number of amendments are to be made to the Electoral Act.
- (3) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the Council has to lay down the provisions necessary for the election of the members of the European Parliament by direct universal suffrage in accordance with a special legislative procedure.

¹ OJ L 278, 8.10.1976, p. 5.

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

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

- (4) Transparency of the electoral process and access to reliable information are important for raising European political awareness and for securing a solid election turnout, and it is desirable that citizens of the Union be informed well in advance of elections to the European Parliament about the candidates standing in those elections and about the affiliation of national political parties to a European political party.
- (5) In order to encourage voter participation in elections to the European Parliament and to fully take advantage of the possibilities offered by technological developments, Member States could provide for the possibilities of *inter alia* advance voting, postal voting, and electronic and internet voting, while ensuring, in particular, the reliability of the result, the secrecy of the vote and the protection of personal data, in accordance with applicable Union law.
- (6) Citizens of the Union have the right to participate in its democratic life, in particular, by voting or standing as candidates in elections to the European Parliament.
- (7) Member States are encouraged to take the measures necessary to allow those of their citizens residing in third countries to vote in elections to the European Parliament.
- (8) The Electoral Act should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The Electoral Act is amended as follows:

(1) Article 1 is replaced by the following:

'Article 1

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

(2) Article 3 is replaced by the following:

'Article 3

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

2. Member States in which the list system is used shall set a minimum threshold for the allocation of seats for constituencies which comprise more than 35 seats. This threshold shall not be lower than 2 per cent, and shall not exceed 5 per cent, of the valid votes cast in the constituency concerned, including a single-constituency Member State.
3. Member States shall take the measures necessary to comply with the obligation set out in paragraph 2 no later than in time for the elections to the European Parliament which follow the first ones taking place after the entry into force of Council Decision (EU, Euratom) 2018/...*.

* Council Decision (EU, Euratom) 2018/... of ... amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 (OJ ...).’;+

(3) The following Articles are inserted:

‘Article 3a

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

+ OJ: insert please the number of this Decision and complete the publication reference in the footnote accordingly.

Article 3b

Member States may allow for the display, on ballot papers, of the name or logo of the European political party to which the national political party or individual candidate is affiliated.’;

- (4) The following Article is inserted:

‘Article 4a

Member States may provide for the possibilities of advance voting, postal voting, and electronic and internet voting, in elections to the European Parliament. Where they do so, they shall adopt measures sufficient to ensure in particular the reliability of the result, the secrecy of the vote, and the protection of personal data in accordance with applicable Union law.’;

- (5) Article 9 is replaced by the following:

‘Article 9

1. No one may vote more than once in any election of members of the European Parliament.
2. Member States shall take measures necessary to ensure that double voting in elections to the European Parliament is subject to effective, proportionate and dissuasive penalties.’;

(6) The following Articles are inserted:

‘Article 9a

In accordance with their national electoral procedures, Member States may take the measures necessary to allow those of their citizens residing in third countries to vote in elections to the European Parliament.

Article 9b

1. Each Member State shall designate a contact authority responsible for exchanging data on voters and candidates with its counterparts in the other Member States.
2. Without prejudice to national provisions on the entry of voters on the electoral roll and the submission of candidacies, the authority referred to in paragraph 1 shall, in accordance with the applicable Union law concerning the protection of personal data, begin transmitting to those counterparts, no later than six weeks before the first day of the electoral period referred to in Article 10(1), the data indicated in Council Directive [93/109/EC](#)* concerning Union citizens who, in a Member State of which they are not nationals, have been entered on the electoral roll or are standing as candidates.

* Council Directive [93/109/EC](#) of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (OJ L 329, 30.12.1993, p. 34).’

Article 2

1. This Decision shall be subject to approval by the Member States in accordance with their respective constitutional requirements. Member States shall notify the General Secretariat of the Council of the completion of the procedures necessary for that purpose.
2. This Decision shall enter into force on the first day after the last notification referred to in paragraph 1 has been received.¹

Done at ...,

For the Council

The President

¹ The date of entry into force of the Decision will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.