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From:	The Danish Parliament
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To:	The President of the Council of the European Union
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Subject:	Proposal for a COUNCIL REGULATION on the election of the Members of the European Parliament by direct universal suffrage, repealing Council Decision 76/787/ECSC, EEC, Euratom and the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to that Decision - Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality ¹

Delegations will find enclosed the reasoned opinion of the Danish Parliament on the above, followed by a courtesy English translation.

¹ The translation(s) of the opinion may be available on the Interparliamentary EU Information Exchange website (IPEX) at the following address: <https://ipexl.europarl.europa.eu/IPEXL-WEB/document/PE-2020-2220/dkfol>



FOLKETINGET

Roberta Metsola
European Parliament
Paul-Henri SPAAK
09B011
60, rue Wiertz
1047, Bruxelles
Belgien

Begrundet udtalelse om Europa-Parlamentets forslag til forordning om almindelige direkte valg af medlemmerne af Europa-Parlamentet

1. juli 2022

Kære Roberta Metsola

Europaudvalget
Christiansborg
1240 København K
3337 5500
ft@ft.dk
www.ft.dk

Folketinget har den 19. maj 2022 modtaget Europa-Parlamentets forslag til forordning om almindelige direkte valg af medlemmene til Europa-Parlamentet, som skal erstatte de eksisterende valgeregler fra 1976 og skabe en mere ensartet procedure for valgene i de enkelte EU-lande, øge gennemsigtigheden og den demokratiske legitimitet og forbedre valgdeltagelsen ved europaparlamentsvalgene.

Jr.nr. 22-000600-1

Folketingets Europaudvalg har den 23. juni 2022 behandlet forslaget og vurderet, om det er i overensstemmelse med nærhedsprincippet i henhold til TEU artikel 5, stk. 3. Det følger heraf, at EU kun kan lovgive, i det omfang målene for den påtænkte handling ikke i tilstrækkeligt omfang kan opfyldes af medlemsstaterne selv og samtidig bedre nås gennem EU-lovgivning. EU-institutionerne er desuden forpligtet til at begrunde behovet for EU-lovgivning og udarbejde en detaljeret analyse underbygget af kvalitative og om muligt kvantitative indikatorer, som gør det muligt at vurdere overholdelsen af nærhedsprincippet.

Europaudvalget støtter forslagets formål om at øge parlamentsvalgenes gennemsigtighed og demokratiske legitimitet og få flere vælgere til stemmeurnerne ved europaparlamentsvalgene. Det er derfor også positivt, at forslaget sigter på at give alle borgere, herunder borgere med handicap, lige adgang til at deltage i valget.

Udvalget vurderer dog, at flere af elementerne i Europa-Parlamentets forslag bedre opfyldes gennem national lovgivning end på EU-plan og derfor er i strid med nærhedsprincippet.

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Det gælder for det første forslaget om at indføre en fælles valgretsalder på 16 år til europaparlamentsvalget. Europaudvalget mener, at valgretsalderen bør ses i sammenhæng med myndighedsalderen i de enkelte EU-lande og derfor bedst reguleres af de enkelte EU-lande i overensstemmelse med deres nationale valgtraditioner og national lov. Hertil kommer, at Europa-Parlamentets forslag ikke vil skabe en ensartet retstilstand i EU-landene på dette punkt, idet kravet om en valgretsalder på 16 år alene vil gælde for de EU-lande, som ikke har valgretsalderen forankret i deres forfatningsmæssige bestemmelser. I Danmark fastsættes valgretsalderen for europaparlamentsvalget ved almindelig lov og følger ikke af grundloven.

For det andet mener udvalget, at Europa-Parlamentets forslag går for vidt i sine bestræbelser på at fastsætte fælles regulering for europaparlamentsvalgenes gennemførelse. EU-landene bør have et betydeligt nationalt råderum i forhold til at fastsætte de nærmere regler for afviklingen af valgene, som lever op til nationale traditioner og praksis.

Bl.a. lægger udvalget vægt på, at de politiske partiers indre organisering ikke reguleres på EU-niveau. Det gælder f.eks., hvilke forhold de politiske partier skal tage i betragtning, når de udformer deres kandidatlistor til europaparlamentsvalget. Det bør være ethvert partis eget ansvar at bestemme, hvordan kandidater skal udvælges. Der er heller ikke behov for på EU-plan at fastsætte fælles bestemmelser om valgkampagner, herunder hvornår de politiske partier må indlede valgkampagner, og hvad der skal være indeholdt i valgkampagnematerialet. Udvalget støtter heller ikke, at EU-lovgiver forbyder meningsmålinger blandt vælgerne de seneste 48 timer før valgdagen.

For det tredje gør udvalget opmærksom på, at Europa-Parlamentets udkast til lovgivningsmæssig retsakt ikke indeholder den påkrævede begrundelse for at regulere på EU-plan, som følger af artikel 5 i Protokollen om anvendelse af nærhedsprincippet og proportionalitetsprincippet. Europa-Parlamentet hverken begrundet, hvorfor forslagets mål bedst opfyldes gennem ensartede EU-regler, eller indeholder den påkrævede detaljerede analyse af forslagets konsekvenser, som skal gøre det muligt at vurdere, om nærhedsprincippet er overholdt. Bl.a. er der usikkerhed om forslagets finansielle virkninger. Europa-Parlamentet opfordres på denne baggrund til at tilvejebringe den nødvendige analyse af forslaget, så forslagets finansielle, lovgivningsmæssige og administrative konsekvenser kan vurderes.



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Med venlig hilsen

Eva Kjer Hansen
Formand for Folketingets Europaudvalg

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Ms Roberta Metsola
The European Parliament
Paul-Henri SPAAK
09B011
60, rue Wiertz
1047, Brussels
Belgium.

Reasoned opinion regarding the European Parliament's proposals for a Council Regulation on the election of the members of the European Parliament by direct universal suffrage

01 July 2022

Dear Ms Metsola,

On 19 May 2022, the Danish Parliament received the European Parliament's proposals for a Council Regulation on the election of the members of the European Parliament by direct universal suffrage repealing existing election regulations dating back to 1976 to create a more uniform procedure for elections in individual Member States, improve the transparency and democratic accountability of the European Parliament, and increase voter turnout at European Parliamentary elections.

The European Affairs
Committee of the Danish
Parliament
Christiansborg Palace
DK-1240 Copenhagen K
+45 3337 5500
ft@ft.dk
www.ft.dk

Ref. no. 22-000600-1

On 23 June 2022, the European Affairs Committee of the Danish Parliament debated the proposals and considered whether they comply with the principle of subsidiarity laid down in TEU Article 5(3). Under the principle of subsidiarity, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can be better achieved via measures taken at Union level. Moreover, the institutions of the Union are obliged to substantiate the need for legislative measures at Union level and draw up a detailed statement supported by qualitative and, if possible, quantitative indicators making it possible to appraise compliance with the principle of subsidiarity.

The European Affairs Committee supports the objectives of the proposals to increase the transparency and democratic accountability of the European Parliamentary elections and encourage a larger voter turnout at these elections. The European Affairs Committee also believes it positive that the proposals seek to give all citizens, including persons with disabilities, equal access to participate in elections.

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However, the Committee finds that multiple elements of the European Parliament's proposals could be better achieved via national legislation than at Union level, and therefore that these elements do not comply with the principle of subsidiarity.

Firstly, this applies to the proposal to introduce a common minimum voting age at European Parliamentary elections of 16 years. The European Affairs Committee believes that the minimum voting age should correlate with the age of majority in individual Member States and is therefore best regulated by the EU Member States individually in line with respective Member States' national electoral traditions and national legislation. Furthermore, with regard to this particular element, the European Parliament's proposals will not create uniform legislative standards as the provision regarding a minimum voting age of 16 years will only apply to Member States where the minimum voting age is laid down elsewhere than in the constitution. In Denmark, the minimum age for voting in the European Parliamentary elections is established by ordinary legal tenets, not by the Constitutional Act of Denmark.

Secondly, the European Affairs Committee believes that the European Parliament's proposals go too far in pursuit of establishing common regulations for the conduct of European Parliamentary elections. Member States should have significant powers to establish detailed regulations for the conduct of elections to concur with national electoral traditions and practices.

Among other objections, the Committee believes it important that the internal organisation of political parties is not regulated at Union level, e.g. the EU should not determine which issues political parties should consider when assembling lists of candidates to the European Parliament. Every political party should be responsible for determining how its own candidates are selected. Nor is there a need at Union level to lay down common provisions regarding election campaigns, including when political parties may embark on election campaigns and the content of their election campaign material. Furthermore, the Committee cannot support the proposal that would allow the EU legislature to prohibit opinion polls among voters in the final 48 hours before election day.

Thirdly, the Committee wishes to point out that the European Parliament's draft version of the legislative act does not include the prerequisite justification for regulation at Union level, as laid down in Article 5 of the Treaty on Eu-



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European Union on the application of the principles of subsidiarity and proportionality. The European Parliament neither justifies why the proposal best meets its purpose by means of uniform EU regulations, nor provides the prerequisite detailed statement of the proposals' implications that shall make it possible to appraise compliance with the principles of subsidiarity and proportionality. Among other issues, the financial impacts of the proposal are unclear. On this basis, the European Affairs Committee encourages the European Parliament to draw up the required statement regarding these proposals so that their financial, legal and administrative impact can be appraised.

Yours sincerely,

Eva Kjer Hansen
Chair, the European Affairs Committee of the Danish Parliament