

# EUROPEAN PARLIAMENT

## Elections to the European Parliament by direct universal suffrage

Draft Convention with Explanatory Statement

SPECIAL ISSUE

based on

the PATIJN report

(Doc 368/74)

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RESOLUTION

of the European Parliament<sup>1</sup>

on the adoption of a draft convention introducing elections to the European Parliament by direct universal suffrage

I

The European Parliament,

- having regard to the report of its Political Affairs Committee (Doc. 368/74),
- reaffirms its conviction that the process of European unification cannot succeed without the direct participation of the peoples affected;
- therefore considers a European Parliament elected by direct universal suffrage as an indispensable element in achieving further progress towards integration and establishing a better equilibrium between the Community institutions on a democratic basis,
- in pursuance of the task assigned to it by the Treaties establishing the European Communities,
- having regard to the need to adapt the draft convention of 1960 to the changed circumstances as they now exist,
- replaces the draft convention it adopted on 17 May 1960<sup>2</sup> by the following

DRAFT CONVENTION

ON THE ELECTION OF MEMBERS OF THE EUROPEAN PARLIAMENT BY DIRECT UNIVERSAL SUFFRAGE

'The Council of the European Communities,

- resolved to take the freely expressed will of the peoples of the Member States of the European Communities as the justification for the mission entrusted to the European Parliament;

<sup>1</sup> adopted on 14 January 1975

<sup>2</sup> OJ No. 37, 2 June 1960, pp. 834/60

- anxious to emphasize the representative character of the European Parliament by the election of its members by direct universal suffrage;
- having regard to Articles 21(3) and 96 of the Treaty establishing the European Coal and Steel Community;
- having regard to Articles 138(3) and 236 of the Treaty establishing the European Economic Community;
- having regard to Articles 108(3) and 204 of the Treaty establishing the European Atomic Energy Community;
- having regard to the draft prepared by the European Parliament and adopted by it on 14 January 1975

has drawn up the following provisions which it recommends the Member States to adopt:

Chapter I  
General Provisions  
Article 1

The representatives of the peoples in the European Parliament shall be elected by direct universal suffrage.

Article 2

1. The number of representatives elected in each Member State shall be as follows:

Belgium	23
Denmark	17
Germany	71
France	65
Ireland	13
Italy	66
Luxembourg	6
Netherlands	27
United Kingdom	67
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	355
	<hr/>

2. The Parliament, the Commission or the Government of any Member State may propose to the Council changes in the number of members provided for in paragraph 1.

Amendments to this convention shall be made pursuant to the procedure provided for in Article 14 of this Convention.

#### Article 3

1. Representatives shall be elected for a term of five years.
2. The five-year legislative period shall begin at the opening of the first session following each election.

#### Article 4

1. Representatives shall vote on an individual and personal basis. They shall accept neither instructions nor any binding mandate.
2. National legislation shall ensure that the representatives receive the same guarantees as to independence, indemnity and immunity as their counterparts in the national Parliaments.

#### Article 5

Membership of the European Parliament shall be compatible with membership of a Parliament of a Member State.

#### Article 6

1. The office of representative in the European Parliament shall be incompatible with that of:
  - member of the Government of a Member State;
  - member of the Commission of the European Communities
  - judge, advocate-general or registrar at the Court of Justice of the European Communities;
  - member of the Court of Auditors of the European Communities;
  - member of the Consultative Committee of the European Coal and Steel Community or member of the Economic and Social Committee of the European Economic Community and of the European Atomic Energy Community;
  - member of committees or other bodies set up in pursuance of the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community for the purpose of managing the Communities' funds or carrying out a permanent and direct administrative task;

- member of the Board of Directors, Management Committee or staff of the European Investment Bank;
  - active official or servant of the institutions of the European Communities or of the specialized bodies attached to them.
2. Subject to the entry into force of special rules pursuant to Article 7(1) of this Convention, the provisions of each Member State relating to incompatibility with a national parliamentary mandate shall be applied.
  3. Representatives of the European Parliament appointed, in the course of a legislative period, to any of the offices mentioned above shall be replaced under the terms of Article 12.

## Chapter II

### Electoral system

#### Article 7

1. The European Parliament shall draw up a proposal for a uniform electoral system by 1980 at the latest. The Council shall unanimously lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their constitutional requirements.
2. Pending the entry into force of this uniform electoral system and subject to the other provisions of this Convention, the electoral system shall fall within the competence of each Member State.

#### Article 8

The provisions governing the admission of political parties to elections in each Member State shall apply to elections to the European Parliament.

#### Article 9

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.
3. The Council shall make arrangements in accordance with the procedure laid down in Article 14, to ensure that the election results are declared at one and the same time.

#### Article 10

1. Elections to the European Parliament shall be held not later than one month before the end of each legislative period.
2. The European Parliament shall sit automatically on the first Tuesday following an interval of one month from the last day of the elections.
3. The outgoing European Parliament shall remain in office until the first sitting of the new Parliament.

#### Article 11

Pending the entry into force of the uniform electoral system to be adopted in accordance with Article 7(1), the European Parliament shall verify the credentials of representatives and rule on any disputes that may arise in this connection.

#### Article 12

Pending the entry into force of the uniform electoral system to be adopted in accordance with Article 7(1) and subject to the other provisions of this Convention, the Member States shall lay down appropriate procedures for filling any seat which falls vacant during a legislative period.

### Chapter III

#### Transitional and final provisions

#### Article 13

1. Subject to the provisions of Article 9, the first elections to the European Parliament shall be held not later than the first Sunday of May 1978.
2. The date of subsequent elections shall be fixed, taking account of Articles 3, 9 and 10, in accordance with the procedure laid down in Article 14.

#### Article 14

Should reference be made to the procedure laid down in this Article or should it appear that further measures are required to implement direct elections to the European Parliament in accordance with this Convention and if the necessary powers are not provided, the Council shall, acting unanimously on a proposal from the European Parliament and with its approval, make the appropriate provisions. The Council shall consult the Commission before making its decision.

## Article 15

1. The following provisions stand repealed by the present Convention: Article 21(3) of the Treaty establishing the European Coal and Steel Community, Article 138(3) of the Treaty establishing the European Economic Community, and Article 108(3) of the Treaty establishing the European Atomic Energy Community.
2. Article 21 (1 and 2) of the ECSC Treaty, Article 138 (1 and 2) of the EEC Treaty, and Article 108 (1 and 2) of the EAEC Treaty shall be repealed on the date fixed in Article 10(2).

## Article 16

This Convention is drawn up in the Danish, Dutch, English, French, German, Irish and Italian languages, all seven texts being equally authentic.

## Article 17

1. This Convention shall be ratified by the Member States in accordance with their respective constitutional requirements.
2. The instruments of ratification shall be deposited with the Government of the Italian Republic, which shall inform the signatory States and the institutions of the European Communities when this has been done.
3. This Convention shall enter into force on the day the instrument of ratification is deposited by the last signatory State to carry out this formality.

## II

### The European Parliament,

- instructs its Political Affairs Committee to establish appropriate contacts with the Council and the Member States with a view to securing the early adoption of the draft convention;
- urges the Council to establish the appropriate contacts with the European Parliament immediately if, in its opinion, changes should be made to the draft convention;
- instructs its Political Affairs Committee to bring forward a supplementary report when modifications of the draft Convention appear to be necessary;
- instructs its Political Affairs Committee immediately to carry out the necessary preliminary work for the introduction of a European electoral system;
- instructs its President to forward this resolution, together with the draft convention and the report of its committee, to the Council and Commission of the European Communities and to the Parliaments and Governments of the Member States.



EXPLANATORY STATEMENT

by the Political Affairs Committee<sup>1</sup>

Rapporteur: Mr Schelto PATIJN

## I. Introduction

1. Direct elections to the European Parliament are essential to enable the peoples to play an immediate part in the unification of Europe. They would thus lend to the exercise of power by the Communities a legitimacy which has hitherto been lacking. The Treaties establishing the European Communities specifically provide for this direct link between the peoples and the European Parliament, but it has not yet proved possible to convince the responsible politicians of the need to take this step which is so fundamental to integration.

2. On 17 May 1960 the European Parliament, acting on the mandate given to it by the Treaties, submitted a draft Convention on the direct election of the European Parliament. This draft was prepared by a working party under the chairmanship of Mr Dehousse, a Member of Parliament. Despite intensive efforts by Parliament the Council did not adopt this draft Convention or forward it to the Member States. In the meantime, with the expiry of the transitional period leading to the establishment of the Communities, the accession of three further States and the general political development in Europe, a new and changed situation has been created which has diminished the relevance of the 1960 proposal.

However, the goal of European integration in the form of political union planned for 1980 will require speedy measures to extend the peoples' participation in the construction of Europe.

3. The increasing problems created by the exercise of a dual mandate merely emphasize the urgency of direct elections. The continuously increasing workload borne by representatives has long since made it impossible for them properly to carry out both national and European duties. This situation adversely affects the national parliaments and the European Parliament - not to mention the dependents of the representatives themselves. Only the introduction of direct elections will make a fundamental improvement possible.

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<sup>1</sup> The following text is an amended version of the report (Doc. 368/74) submitted to the Assembly by the Political Affairs Committee. The amendments were adopted by the Political Affairs Committee at its meeting of 23/24 January 1975 in accordance with the wording of the Draft Convention adopted by the Assembly on 14 January 1975.

4. The submission of a new draft Convention thus serves three purposes:
- By taking into account the changes which have occurred since 1960 it should provide a new opportunity for all the Member States to give their approval to this Convention, first in the Council and later by ratification in the national parliaments.
  - In addition, it should strengthen the legitimacy of the European Community and thus smooth the road to European Union.
  - Finally, it should provide a solution to the problems associated with the exercise of a dual mandate.

5. The rapporteur was guided by these considerations during his work and, through numerous conversations with politicians and competent experts from all the Member States and through an analysis of the obstacles which have until now prevented the Council from adopting the 1960 draft Convention, has made every effort to submit a realistic proposal.

It became apparent during the preparatory work that, despite differences in opinion on specific questions, there exists a broad measure of agreement on the need for elections to the European Parliament by direct universal suffrage.

The rapporteur wishes in this connection to emphasize that he encountered a great readiness to make a serious beginning on the implementation of direct elections and to support him in his work.

The European Parliament's rapporteur is deeply grateful to the national politicians and experts who so readily cooperated with him.

6. The report contains the following sections:

- A draft Convention on the introduction of direct elections in the form of a motion for a resolution to be adopted by the European Parliament,
- and, in the explanatory statement,
- comments on the individual articles of the Convention together with a comparison of the old and new Convention texts,
  - a summary of the Dehousse report submitted to the European Parliament in 1960,
  - a description of the work done on the question of direct elections since 1960,
  - an analysis of the major problems of the draft Convention.

II. Notes on the individual Articles of the draft Convention

Article 1

The representatives of the peoples in the European Parliament shall be elected by direct universal suffrage.

Explanation:

The text of this Article is identical with that of the 1960 proposal.

This Article gives effect to the principle of elections to the European Parliament by direct, universal suffrage laid down in Article 21 (3) of the ECSC Treaty, Article 138 (3) of the EEC Treaty and Article 108 (3) of the Euratom Treaty.

The terms 'universal' and 'direct' mean that the elections shall take place throughout the territory of the Community and that the electorate shall directly determine the composition of the Parliament. Indirect elections, e.g., through electoral colleges or by means of the present system of delegation (delegation of members by their national parliaments) is thus excluded.

Article 2

New text

1960 text

1. The number of representatives elected in each Member State shall be as follows:

The number of representatives elected in each Member State shall be as follows:

Belgium .....	23
Denmark .....	17
Germany .....	71
France .....	65
Ireland .....	13
Italy .....	66
Luxembourg .....	6
Netherlands .....	27
United Kingdom .....	67

Belgium .....	42
France .....	108
Germany .....	108
Italy .....	108
Luxembourg .....	18
Netherlands .....	42
	<u>426</u>

355

2. The Parliament, the Commission or the Government of any Member State may propose to the Council changes in the number of members provided for in paragraph 1.

Amendments to this Convention shall be made pursuant to the procedure provided for in Article 14 of this Convention.

Explanation:

1. The 1960 proposal provided for a trebling of the previous number of members. This procedure would today result in a total number of 594 representatives.

The changes to the 1960 proposal are based on the following considerations:

In arriving at the total number of representatives and the distribution of mandates between the individual Member States, an attempt was made to achieve the best possible compromise between the Parliament's functional efficiency and maximum representation, without taking the existing situation as a general point of departure.

The total number of representatives was decided upon in the belief that the present number of 198 members is too small to effectively carry out the mission of the European Parliament. It is also too small for the European Parliament to appear sufficiently representative of the approximately 250 million inhabitants of the Community.

On the other hand, parliamentary experience in the democratic countries indicates a maximum number beyond which effective parliamentary work is no longer possible. This is probably somewhere between 600 and 700 members. However, the European Parliament's workload, as far as it can be anticipated at present, does not yet call for a parliament as large as those in the Member States with the biggest populations. For the time being, then, a figure below 600 representatives would appear sufficient. The 1960 report provided for 426 seats to be distributed amongst the six Member States. The 355 representatives provided for in the new proposal would appear to be enough for the present. This figure allows for any necessary adjustments to be made in the event of an increase in the powers of Parliament or the accession of new States. This figure would also permit - given the retention of the present number of committee seats - each representative to participate as a full member of one committee. <sup>1</sup>

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<sup>1</sup> The Political Affairs Committee proposed that Parliament should decide on a total number of 550 seats. This proposal was not, however, adopted. For the system of calculation and the distribution of the seats between Member States suggested by the Political Affairs Committee, see below Part V, paragraph 50.

2. The distribution of seats amongst the individual Member States is based on the following criteria:

- The highest degree of proportionality should be achieved between the number of inhabitants of a State and the number of its representatives in the European Parliament,
- all the important political forces of a State should be represented in the European Parliament,
- the new distribution of seats should not lead to a reduction in the present number of any State's representatives.

These criteria can be applied fairly accurately by adopting the following system:

- (a) Up to a population of 1 million each State receives 6 seats.
- (b) States with a population between 1 million and 2.5 million are given 6 further seats.
- (c) Up to a population of 5 million, each State receives 1 further seat for each additional 500,000 inhabitants.
- (d) For a population between 5 million and 10 million each State receives 1 further seat for each additional 750,000 inhabitants.
- (e) For a population between 10 million and 50 million each State receives 1 further seat for each additional 1 million inhabitants or part thereof.
- (f) For a population exceeding 50 million, each State receives 1 further seat for each additional 1.5 million inhabitants or part thereof.

The seat distribution provided for in Article 2 results from the application of this system to Member States' populations in 1973.

		(a)		(b)		(c)		(d)		(e)		(f)	
	Popula- tion (in millions) 1973	Seats after 1st count	Remain- der (in mil- lions)	Seats after 2nd count	Remain- der (in mil- lions)	Seats after 3rd count	Remain- der (in mil- lions)	Seats after 4th count	Remain- der (in mil- lions)	Seats after 5th count	Remain- der (in mil- lions)	Seats after 6th count	Total seats
Belgium	9.7	6	8.7	6	7.2	5	4.7	6	-	-	-	-	23
Denmark	5.0	6	4.0	6	2.5	5	-	-	-	-	-	-	17
Germany	61.7	6	60.7	6	59.2	5	56.7	6	51.7	40	11.7	8	71
France	51.7	6	50.7	6	49.2	5	46.7	6	41.7	40	1.7	2	65
Ireland	3.0	6	2.0	6	0.5	1	-	-	-	-	-	-	13
Italy	54.3	6	53.3	6	51.8	5	49.3	6	44.3	40	4.3	3	66
Luxembourg	0.35	6	-	-	-	-	-	-	-	-	-	-	6
Netherlands	13.3	6	12.3	6	10.8	5	8.3	6	3.3	4	-	-	27
United Kingdom	55.8	6	54.8	6	53.3	5	50.8	6	45.8	40	5.8	4	67

3. Should it prove necessary to alter the number of representatives, this can be done according to a procedure similar in principle to that laid down in Article 235 of the EEC Treaty for supplementing the Treaties - account being taken of the special provisions of Article 14 of this Convention. Under this procedure the Council shall decide unanimously on adoption or rejection of the proposal after obtaining Parliament's approval and consulting the Commission. By contrast with Article 14 of this Convention, the Member States and the Commission may also themselves submit appropriate proposals to the Council. Details of the procedure for adopting this proposal should be laid down by the European Parliament in its Rules of Procedure.

### Article 3

#### New text

1. Representatives shall be elected for a term of five years.
2. The five-year legislative period shall begin at the opening of the first session following each election.

#### 1960 text (Art.5)

1. Representatives shall be elected for a term of five years.

The mandate of the representatives elected by the Parliament shall, however, end with the loss of the national parliamentary mandate or at the end of the period for which they have been elected by their national Parliaments. Any representative whose mandate ends in this way shall remain in office until the mandate of his successor has been confirmed in the European Parliament.

2. The five-year legislative period shall begin at the opening of the first session following each election.

Explanation:

The proposed text is basically the same as that contained in the 1960 proposal. However, since no transitional period is provided for in the new proposal, the second sub-paragraph of Paragraph 1 of the 1960 proposal can be deleted.

The legislative periods in the parliaments of the Member States differ. However, the proposed five-year period represents for the European Parliament the best possible compromise between the necessary continuity of work and the most exact reflection in Parliament of the will of the electorate.

Article 4

New text

1. Representatives shall vote on an individual and personal basis. They shall accept neither instructions nor any binding mandate.
2. National legislation shall ensure that the representatives receive the same guarantees as to independence, indemnity and immunity as their counterparts in the national Parliaments.

1960 text (Art. 6)

Representatives shall vote on an individual and personal basis. They shall accept neither instructions nor any binding mandate.

Explanation:

The first paragraph of this text corresponds to Article 6 of the 1960 proposal.

It clearly indicates that the position and function of representatives in the European Parliament corresponds to those of their counterparts in the parliamentary democracies.



The purpose of the newly added provision of paragraph (2) is to ensure that Members of the European Parliament obtain the same legal rights (for instance, protection against prosecution) as Members of national Parliaments. Otherwise there would be no guarantee of directly elected Members without a dual mandate having the same status as Members who are simultaneously Members of a national Parliament.

Article 5

New text

1960 text (Art.7)

Membership of the European Parliament shall be compatible with membership of a Parliament of a Member State.

1. During the transitional period, membership of the European Parliament shall be compatible with membership of a Parliament.

2. The European Parliament shall decide whether these mandates are to remain compatible after the end of the transitional period.

1960 text (Art.3)

During a transitional period, one third of these representatives shall be elected by the Parliaments from among their own members, in accordance with a procedure that ensures that the political parties are fairly represented.

Explanation:

The 1960 draft Convention stipulated that during a transitional period one third of the representatives in the European Parliament were to be elected by the national Parliaments.

This rule was not retained in the new Convention for two reasons:

- (a) As more than 15 years have elapsed since the establishment of the European Communities, it does not appear necessary to make the transition from the present situation to a directly elected Parliament in stages.

Moreover, since this was not provided for by the Treaties, legal objections were also raised to the introduction of a transitional period.

- (b) Furthermore, the advantage of a close link between the national Parliaments and the European Parliament, which would be created by the obligation for one third of the representatives to retain a dual mandate, must be set against the disadvantage that the European Parliament would thereby create a special status for a particular

group of its members. After all, the purpose of direct elections is to grant the European mandate independent status alongside a national mandate and to enable all representatives to devote themselves completely to their duties in the European Parliament. The convention provides that the loss of a national mandate will no longer lead to the loss of a European mandate.

The new Convention leaves it to the individual members to decide whether, in addition to this European mandate, they also wish to belong to their respective national Parliaments. The individual national Parliaments can themselves lay down the conditions and rules governing simultaneous membership of both Parliaments. This could, for example, take one of the following forms:

- members of the European Parliament are also members of the national Parliaments with or without voting rights;
- members of the European Parliament are released from active participation in the national Parliaments;
- members of the European Parliament may delegate their voting rights in their national Parliament to another member.

#### Article 6

##### New text

##### 1960 text (Art.8)

1. The office of representative in the European Parliament shall be incompatible with that of:

- member of the Government of a Member State;
- member of the Commission of the European Communities;
- judge, advocate-general or registrar at the Court of Justice of the European Communities;
- member of the Court of Auditors of the European Communities;

1. During the transitional period:

- (a) The office of representative in the European Parliament shall be incompatible with that of:
  - member of the Government of a Member State;
  - member of the High Authority of the European Coal and Steel Community, of the Commission of the European Economic Community or of the Commission of the European Atomic Energy Community;
  - judge, advocate-general, or registrar at the Court of Justice of the European Communities;

- member of the Consultative Committee of the European Coal and Steel Community or member of the Economic and Social Committee of the European Economic Community and of the European Atomic Energy Community;
  - member of committees or other bodies set up in pursuance of the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community for the purpose of managing the Communities' funds or carrying out a permanent and direct administrative task;
  - member of the Board of Directors, Management Committee of staff of the European Investment Bank;
  - active official or servant of the institutions of the European Communities or of the specialized bodies attached to them.
- member of the Consultative Committee of the European Coal and Steel Community or member of the Economic and Social Committee of the European Economic Community and of the European Atomic Energy Community;
  - auditor, as provided for in Article 78 of the Treaty setting up the European Coal and Steel Community, or member of the Supervisory Committee of Auditors provided for in Article 206 of the Treaty setting up the European Economic Community and Article 180 of the Treaty setting up the European Atomic Energy Community;
  - member of committees or other bodies set up in pursuance of the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community for the purpose of managing the Communities' funds or carrying out a permanent and direct administrative task;
  - member of the Board of Directors, Management Committee or staff of the European Investment Bank;
  - active official or servant of the institutions of the European Communities or of the specialized bodies attached to them.

2. Subject to the entry into force of special rules pursuant to Article 7(1) of this Convention, the provisions of each Member State relating to incompatibility with a national parliamentary mandate shall be applied.

3. Representatives of the European Parliament appointed, in the course of a legislative period, to any of the offices mentioned above shall be replaced under the terms of Article 12.

Representatives of the European Parliament appointed, in the course of a legislative period, to any of the offices mentioned above shall be replaced under the terms of Article 17.

(b) each Member State shall

determine whether, and to what extent, the incompatibilities laid down by its laws with regard to the exercise of a national parliamentary mandate shall apply to the exercise of a mandate in the European Parliament.

2. The European Parliament shall decide on the system of incompatibility to be adopted after the end of the transitional period.

Explanation:

The incompatibility provisions in the new draft Convention are practically identical to those of the 1960 draft. The only new feature is the reference to members of the Court of Auditors. This institution, to be set up shortly, will replace the existing Board of Auditors and the ECSC auditor.

The provision in Article 8 (1) (b) of the 1960 proposal, to the effect that the Member States may determine further incompatibilities at national level, has been modified in order to maintain for the time being the incompatibility rules in force within the individual Member States.

Article 7

New text

1. The European Parliament shall draw up a proposal for a uniform electoral system by 1980 at the latest. The Council shall unanimously lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their constitutional requirements.
2. Pending the entry into force of this uniform electoral system and subject to the other provisions of

1960 text (Art.9)

The European Parliament shall lay down the provisions governing the election of representatives after the end of the transitional period provided for in Article 4, in accordance with as uniform a procedure as possible.

Until these provisions come into force, the electoral system shall, subject to the terms of the present Convention, fall within the competence of each Member State.

this Convention, the electoral system shall fall within the competence of each Member State.

Explanation:

This provision differs from that in the 1960 proposal to the extent that the latter provided for the introduction of a uniform electoral system after the end of the transitional period.

Article 21 (3) of the ECSC Treaty, Article 108 (3) of the Euratom Treaty and Article 138 (3) of the EEC Treaty require the European Parliament to draw up proposals for direct elections in accordance with a uniform procedure.

The Treaties do not specify how uniform the procedure must be in order to satisfy this requirement. At the present stage of the approximation of the procedures for shaping the political will in the Member States, a uniform procedure could already be said to exist when elections in all the Member States are carried out according to the same basic principles. These include in particular, apart from the provisions contained in this draft Convention, the fundamental principles of democratic elections, i.e. elections must be equal, free, universal, direct and secret.

In 1960 Parliament, after extensive study, came to the conclusion that it would not at present be possible to introduce a uniform electoral system in all the Member States. Parliament therefore believed at the time that a 'uniform procedure' was not synonymous with a 'uniform electoral system'.

Even though its ultimate aim was a uniform electoral system, Parliament nevertheless proposed that direct elections be held initially on the basis of national electoral systems.

Particularly in the light of the enlargement of the Community, the position then adopted by the European Parliament remains appropriate.

Within the limits of the principles mentioned above, each Member State is therefore free to draft a law which corresponds to its political traditions and structures. It was already pointed out in the explanatory statement to the 1960 proposal that any problems arising from a conflict between national electoral law and Community electoral law could eventually be resolved by recourse to the European Court of Justice.

However, as the political structures of the Member States become more similar, the level of uniformity must necessarily increase. The European Parliament should work out for the elections to be held after 1980 an electoral system to take account of political developments in the Member States and to settle further details uniformly. 1980 is a target for the

carrying out of this obligation on the European Parliament. If Parliament sets energetically about working out this project, it will be possible to hold the first elections after the introduction of direct elections (presumably therefore in 1983) in accordance with this uniform procedure.

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Article 8

New text

The provisions governing the admission of political parties to elections in each Member State shall apply to elections to the European Parliament.

1960 text (Art. 13)

The constitutional provisions governing the admission of political parties to elections in each Member State shall apply to elections to the European Parliament.

Explanation:

This text corresponds in essence to Article 13 of the 1960 proposal.

The European Parliament consists at present of representatives belonging to 53 different parties. As long as the electoral procedure is not fully uniform, it does not seem necessary to include in the Convention provisions governing the role of the parties in direct elections.

A reference to individual national regulations also appears appropriate because of the considerable differences between individual national provisions governing the function and eligibility of parties.

However, the European Parliament emphasizes the great importance of the parties in the preparation for European elections. Not until the parties succeed, within the Community framework, in establishing close links between themselves, developing joint programmes and creating supranational party structures can direct elections to the European Parliament become a key factor in the process of political integration.

## Article 9

### New text

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.
3. The Council shall make arrangements in accordance with the procedure laid down in Article 14, to ensure that the election results are declared at one and the same time.

### Explanation:

Paragraphs 1 and 2 are essentially the same as the corresponding text of the 1960 proposal. They lay down the important principle that European elections shall be held on the same day.

Respect for national customs, however, ought not to be precluded, and for this reason a minor deviation from this election date is permitted. If elections are held on different days, however, care must be taken that the results from those countries which have already voted do not influence the behaviour of the electorate in the States where voting takes place later. A Council directive could be used to resolve this technical detail.

It does not appear practical, however, to retain the provision contained in the 1960 proposal prohibiting the holding of national and European elections on the same day. Although a cumulation of several elections on a single day would detract from the psychological significance of European elections, it is not inconceivable that a specific political situation in individual States (e.g. early dissolution of Parliament) might necessitate the holding of national elections at the same time.

...

Other factors in favour of holding European and national elections. (at regional or national level) at the same time include financial consideration and the advantage that - at least in the beginning - a higher turnout in the European elections could thus be achieved.

#### Article 10

##### New text

1. Elections to the European Parliament shall be held not later than one month before the end of each legislative period.
2. The European Parliament shall sit automatically on the first Tuesday following an interval of one month from the last day of the elections.
3. The outgoing European Parliament shall remain in office until the first sitting of the new Parliament.

##### 1960 text (Art. 15)

1. Elections to the European Parliament shall be held not later than one month before the end of each legislative period.
2. The European Parliament shall sit automatically on the first Tuesday following an interval of one month from the date of the elections.
3. The outgoing European Parliament shall remain in office until the first sitting of the new Parliament.

##### Explanation:

This provision is virtually identical to that of the 1960 draft. It ensures continuity in the transition from one European Parliament to the next. The precise election date for all elections taking place after 1978 will be fixed according to the procedure under Article 14.

#### Article 11

##### New text

Pending the entry into force of the uniform electoral system to be adopted in accordance with Article 7(1), the European Parliament shall verify the credentials of representatives and rule on any disputes that may arise in this connection.

##### 1960 text (Art. 16)

The European Parliament shall verify the credentials of representatives and rule on any disputes that may arise in this connection.

##### Explanation:

With the exception of the reservation in regard to Article 7(1), Article 16 of the 1960 draft Convention contains a similar provision. The European Parliament already verifies the credentials of representatives, but this verification will have greater practical significance in the case of a directly elected Parliament. Procedural details should be fixed in the Rules of Procedure.

As long as the direct elections are organized under laws enacted at national level, supervision of the election procedure is incumbent on the national bodies. But as soon as a uniform European electoral system is introduced, consideration should be given to handing over verification of the lawfulness of the election to a Community institution - e.g. the European Court of Justice.



Article 12

New text

Pending the entry into force of the uniform electoral system to be adopted in accordance with Article 7(1) and subject to the other provisions of this Convention, the Member States shall lay down appropriate procedures for filling any seat which falls vacant during a legislative period.

1960 text (Art. 17)

Should a seat filled in elections by direct universal suffrage fall vacant, no by-election shall be held.

Subject to this proviso, an electoral procedure for filling such a vacancy during the transitional period shall be determined by national law.

Should a seat filled in pursuance of Article 3 fall vacant, the successor shall be elected or nominated by the Parliament of the Member State.

Explanation:

The new text differs in two important respects from the 1960 proposal. Firstly, the third paragraph of the former Article 17 has been deleted, since the nomination of representatives by the national Parliaments is no longer provided for. Furthermore, for the sake of consistency, a national electoral law should remain responsible for establishing a replacement procedure for seats which have fallen vacant. This includes the possibility of holding by-elections.

Article 13

New text

1. Subject to the provisions of Article 9, the first elections to the European Parliament shall be held not later than the first Sunday of May 1978.

2. The date of subsequent elections shall be fixed, taking account of Articles 3, 9 and 10, in accordance with the procedure laid down in Article 14.

1960 text (Art. 21)

Subject to the provisions of Article 14, the first elections to the European Parliament shall be held on the first Sunday following an interval of six months from the day this Convention comes into force.

Explanation:

Unlike the 1960 proposal, the new text lays down a latest date for the first elections. This change was made for the following reasons: by fixing a date prior to which the draft Convention will have to be ratified the Council is given notice of the maximum period in which Parliament expects the proposal to be dealt with and adopted.

The Conference of Heads of State or Government on the 9 and 10 December 1974 also recommended that direct elections to the European Parliament should take place in or after 1978. Further, the Conference wished the Council to act in 1976 on the proposals of the Parliament.

If the Council starts to work immediately on the Parliament's proposals, it should be possible to take even earlier a decision to recommend the text of a convention to Member States. By 1978 it should be possible to accomplish ratification by Member States, the introduction of national electoral provisions and the actual preparations for the elections. In this context, it is essential to emphasise the importance, in the achievement of a European Union by 1980, of a directly-elected European Parliament.

A European Parliament elected by direct suffrage is an essential part of a political union in Europe. Moreover it is to be hoped that the first elections will be held before the creation of the Union, so that the direct cooperation of the European peoples in this Union will be assured to the full.

If the elections take place in the first week of May, the political mobilization of public opinion for European integration which traditionally takes place during this period may have a positive effect on the European elections.

After 1978 elections to the European Parliament, pursuant to Article 3, will take place at five-yearly intervals. Article 10 lays down that the elections shall be held not later than one month before the end of each legislative period. It would appear appropriate not to fix the exact election dates now but to leave the decision in each case to Parliament and to the representatives of the Member States in Council acting under the procedure laid down in Article 14.

#### Article 14 (new)

Should reference be made to the procedure laid down in this Article or should it appear that further measures are required to implement direct elections to the European Parliament in accordance with this Convention and if the necessary powers are not provided, the Council shall, acting unanimously on a proposal from the European Parliament and with its approval, make the appropriate provisions. The Council shall consult the Commission before making its decision.

#### Explanation:

The draft Convention - like the 1960 proposals - intentionally contains only the most essential provisions. A complete solution to every problem is not at present necessary. At the present stage of the development of the European Communities such a solution would also cause unnecessary technical and political difficulties.

It would be impractical, however, if every addition to this Convention necessitated the complicated procedure of concluding and ratifying an Agreement between the Member States (pursuant to Article 236 of the EEC Treaty). Article 14 therefore provides a flexible procedure which permits the Community to make any essential additions itself. This procedure corresponds almost exactly to that laid down in Article 235 of the EEC Treaty and Article 203 of the Euratom Treaty, so that, for the purpose of interpretation, reference can be made to the commentaries on these Articles.

The deviation from Article 235 of the EEC Treaty and from Article 203 of the Euratom Treaty is of an institutional character. The Council is to take the necessary measures not only on a proposal from the European Parliament

but also with its approval. If reference is here made to the long-standing demand by the European Parliament for the right to approve legislation, this represents an attempt to reach a compromise between two extremes.

- Under Article 235 the European Parliament must be consulted by the Council; the latter, however, is not bound by Parliament's opinion.
- On the other hand, since the direct election of the European Parliament is at issue here, it could be argued that the Council should have absolutely nothing to do with the electoral arrangements but that the power to make them should be vested exclusively in the European Parliament. The proposed right of approval changes the present legal situation to the extent that the Council can no longer disregard the opinion of the European Parliament but may nevertheless participate in equal measure in laying down legislation.

In this procedure the Commission has the right to be consulted corresponding to the consultation of the European Parliament under Article 235 EEC and 203 EAEC. This role is already assigned to the Commission elsewhere in the Treaties (e.g. Article 126 EEC).

#### Article 15 (new)

1. The following provisions stand repealed by the present Convention:

Article 21(3) of the Treaty establishing the European Coal and Steel Community, Article 138(3) of the Treaty establishing the European Economic Community and Article 108(3) of the Treaty establishing the European Atomic Energy Community.

2. Article 21 (1 and 2) of the ECSC Treaty, Article 138 (1 and 2) of the EEC Treaty, and Article 108 (1 and 2) of the EAEC Treaty shall be repealed on the date fixed in Article 10(2).

#### Explanation:

The new text corresponds to the concept put forward by the Political Affairs Committee in 1960. This Article was deleted in plenary sitting because it was felt that it would be no more than a superfluous declaration. It nevertheless seems expedient to include in the Convention a provision which clearly defines the relationship between the Convention and previously applicable provisions.

The repeal of all the Articles which have until now governed the election and composition of the European Parliament is based on the following considerations:

Paragraph 1 of Article 21 of the ECSC Treaty, Article 138 of the EEC Treaty and Article 108 of the Euratom Treaty governs the designation of delegates by the national Parliaments. This will no longer be possible after the introduction of direct elections.

Paragraph 2 of these Articles governs the distribution of seats between the individual Member States and lays down the total number of representatives. This provision is superseded by Article 2 of the new Convention.

These two provisions cannot, however, cease to be valid until the newly elected Parliament assembles. So that a competent and lawfully constituted Parliament can continue to function until that date, the provisions governing the composition of the European Parliament until now have to be retained until then.

Paragraph 3 of the same Articles calls for the introduction of direct elections, provides the necessary powers and describes the procedure for adoption of the provisions. Where the powers provided under Article 21(3) of the ECSC Treaty, Article 138(3) of the EEC Treaty and Article 108(3) of the Euratom Treaty have not already been exhausted they are included in similar terms in Article 7(1) of the new proposal. These Articles therefore lose their significance on adoption of this Convention.

Since the complete repeal of these provisions represents a Treaty amendment, a reference has been made in the preamble to the amendment clauses contained in the Treaties (Article 96 of the ECSC Treaty, Article 236 of the EEC Treaty and Article 204 of the Euratom Treaty).

#### Article 16

##### New text

This Convention is drawn up in the Danish, Dutch, English, French, German, Irish and Italian languages, all seven texts being equally authentic.

##### 1960 text (Art. 22)

This Convention is drawn up in the Dutch, French, German and Italian languages, all four texts being equally authentic.

#### Explanation:

This text has been amended because of the increase in the number of the Community languages following enlargement.

The wording used, moreover, corresponds to the form used in the Community Treaties concluded between the Member States.

Article 17

New text

1. This Convention shall be ratified by the Member States in accordance with their respective constitutional requirements.

2. The instruments of ratification shall be deposited with the Government of the Italian Republic, which shall inform the signatory States and the institutions of the European Communities when this has been done.

3. This Convention shall enter into force on the day the instrument of ratification is deposited by the last signatory State to carry out this formality.

1960 text (Art. 23)

This Convention shall be ratified by the Member States in accordance with their respective constitutional requirements.

The Governments of the Member States agree to take the steps necessary for this purpose as soon as possible, presenting to the Parliaments any document that may be needed before approval can be given.

The instruments of ratification shall be deposited with the Government of the Italian Republic which shall inform the signatory States and the institutions of the European Communities when this has been done.

This Convention shall come into force on the day the instrument of ratification is deposited by the last signatory State to carry out this formality.

Explanation:

The new text corresponds to the form habitually used in agreements between the Member States on Community matters (see Article 2 of the Treaty of Accession)

III. SUMMARY OF THE REPORT ADOPTED BY THE EUROPEAN PARLIAMENT ON 17 MAY  
1960

7. Directly after the constitution of the European Parliament in March 1958 the Political Affairs Committee began work on a report on direct elections. A special working party was first set up under the chairmanship of the Socialist Member, Mr Dehousse, to make a detailed study of all problems associated with such elections. After consultations in the Member States, the Political Affairs Committee adopted a draft Convention in March 1960 and submitted this proposal to Parliament for its approval. This proposal was accompanied by a report in four parts: the general report was drafted by Mr Dehousse, the report on the composition of Parliament by Mr Maurice Faure, that on questions relating to the electoral system by Mr Schuijt, and the report on the representation of the overseas countries and territories was drafted by Mr Metzger.

Details of the background to and the parliamentary consideration of this proposal will be found in the selected documents published by the European Parliament in 1969 under the title 'The case for elections to the European Parliament by direct universal suffrage'.

8. The rapporteur would refer those interested to this publication. He will confine himself here to a summary of the main problems considered by the European Parliament in its examination of the draft Convention in 1960. The main points included:

- the electoral procedure,
- the transitional period,
- the number of representatives,
- links with national Parliaments,
- date of the election, and
- general political problems associated with the introduction of direct elections.

9. As regards the electoral procedure, the impossibility of setting up in the foreseeable future a completely uniform system within the European Communities was already recognized in 1960. The draft Convention therefore proposed that the details of the electoral procedure should initially be settled at national level until such time as a uniform electoral system was prepared and introduced by the European Parliament.

10. The 1960 draft Convention also proposed that direct elections should be introduced by stages and that during a transitional period - to run parallel with the transitional period for establishing the European Communities - only two-thirds of the representatives would be directly elected while certain questions of electoral procedure would not be finally settled until the end of this transitional period.

11. The 1960 proposal recommended setting the number of representatives in the directly elected Parliament by tripling the then existing number of members. The Convention thus proposed a total of 426 representatives.

12. Links with the national Parliaments were still of particular importance to the European Parliament in 1960. The proposal would thus have provided for the retention of the dual mandate for one-third of the representatives for the duration of the transitional period. However, the European Parliament did not take any binding decisions as to when the permanent arrangement for a directly-elected parliament was to come into force.

13. According to the 1960 Convention the elections were to take place on the same date. The first elections would be held six months after ratification of the Convention by all the Member States.

14. It was the view of the draftsmen of the 1960 proposal that the question of increased powers for the European Parliament and the matter of direct elections should be dealt with separately. Increased powers were in any case not a prerequisite for direct elections.

15. The details of the 1960 proposal together with the new draft Convention are set out in comparative form in Part II of this report.



IV. SUMMARY OF EVENTS BETWEEN 1960 and 1973

16. On 17 May 1960 the European Parliament adopted the following resolutions:

- (a) Resolution on the adoption of a draft convention introducing elections to the European Parliament by direct universal suffrage
- (b) Resolution on the procedure to be adopted in respect of the draft convention
- (c) Resolution on the electoral procedure during the transitional period
- (d) Resolution on the strengthening of Parliament's powers
- (e) Declaration of intent on participation by parliamentary representatives of the overseas countries and territories in the work of the European Parliament
- (f) Resolution on the preparation of public opinion for European elections by direct universal suffrage.

17. In the next twelve years, the European Parliament made many attempts to obtain a Council decision on the draft convention. At the same time bills were tabled in certain national parliaments with a view to arranging the direct election of the national delegations concerned.

18. In a resolution of 27 June 1963 on the powers and responsibilities of the European Parliament (Doc. 31/1963), Parliament stated that the direct election of representatives to the European Parliament was an essential factor for the democratization of the Community, and urged the Councils of Ministers and Governments to assume their full responsibility for the early entry into force of the draft convention.

19. On 12 March 1969 the European Parliament adopted the following resolution (Doc. 214/68-69):

- having regard to the fact that Article 138(3) of the EEC Treaty provides for the election of its Members by direct universal suffrage,
- having regard to the fact that Parliament submitted as long ago as on 17 May 1960 a draft convention on elections to the European Parliament by direct universal suffrage,
- having regard to the fact that the Council has to date taken no decision on this draft convention and has not considered the matter for six years,

instructs its President to call upon the Council to apply without further delay the procedure laid down in the Council to Parliament's draft, and to refer the Council to Article 175(1) and (2) of the EEC Treaty.

20. On 12 May 1969 the Council instructed the Committee of Permanent Representatives to report to it on the question of elections by direct universal suffrage.

21. At their meeting in The Hague on 1 and 2 December 1969, the Heads of State or Government published a final communiqué<sup>1</sup>, which contained the following passage (paragraph 5):

'The question of direct elections shall be given further consideration by the Council.'

22. The European Parliament then adopted on 3 February 1970 a resolution on the basis of a report by Mr Dehousse (Doc. 210/69-70); the most important passage in this resolution was as follows:

1. Notes that the Heads of State or Government, while inviting the Council to give further consideration to the question of direct general elections, laid down no timetable or time-limit for such consideration;
2. Urges the Council to complete its work on this question as quickly as possible;
3. Calls for the creation by mutual agreement of a suitable consultation procedure between Parliament and the Council, in order to define concrete provisions on the basis of the draft drawn up by Parliament in 1960 to enable Article 138 of the EEC Treaty, Article 108 of the EAEC Treaty and Article 21 of the ECSC Treaty to be implemented;

23. Under the terms of this dialogue requested by Parliament, meetings were held on 26 June 1970, 8 December 1970 and 2 March 1972 between a delegation from the European Parliament or its Political Affairs Committee and the President-in-Office of the Council. It became apparent that the Council's working party had still not evolved a unanimous position on the plan proposed by the European Parliament.

24. Parliament therefore made the following recommendations in its resolution of 5 July 1972 on the forthcoming Summit Conference (Doc. 73/72):

'The request first made by the European Parliament in 1960, and emphatically repeated on several occasions since for its Members to be elected by direct universal suffrage in accordance with Article 138(3) of the EEC Treaty, still stands. The search for ways and means of removing the practical and political obstacles which have so far postponed implementation of this measure must be begun immediately and pursued resolutely.'

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<sup>1</sup>Printed in the Commission's Third General Report, p. 426.

The widening of Parliament's powers is not linked with the issue of its direct election, and cannot be postponed until such elections are held.'

When the Summit Conference failed to adopt a position on the question of direct elections, Parliament stated on 14 November 1972 (Doc. 194/72):

'It regrets that no definite dates have been laid down for the general and direct election of Members of the European Parliament and no instructions given to solve the remaining difficulties.'

25. At the same time as it was urging the adoption of its 1960 proposal by the Council, Parliament contacted the authors of the national bills for the introduction of European elections. On 6 October 1971 there was a meeting with the Political Affairs Committee. These bills mostly made provision for the direct election of the delegations from the respective national parliaments. There were considerable differences between the details of the schemes. To date, however, no such law has been passed in any Member State.

26. Until 1970, Mr Dehousse was rapporteur for the Political Affairs Committee. After his departure, the Political Affairs Committee appointed Mr Lautenschlager the new rapporteur on 14 May 1971. Mr Lautenschlager was made responsible for ascertaining whether the conclusions which Parliament had reached in 1960 should be altered after eleven years. In view of the enlargement of the European Communities on 1 January 1973, there was also undoubtedly a need to adapt Parliament's draft of 1960 to the changed circumstances.

The European Parliament therefore decided at its sitting of 4 June 1973 to draw up a new report on the introduction of elections by direct universal suffrage. After Mr Lautenschlager had left the Political Affairs Committee, Mr Patijn was appointed the new rapporteur on 13 September 1973.

#### V. MAIN PROBLEMS RAISED BY THE DRAFT CONVENTION

27. During the European Parliament's preparatory work in 1959 - 1960 and the subsequent political efforts to secure the adoption of Parliament's draft convention it became clear that there were essentially five problems concerning the content of a convention to introduce direct elections to the European Parliament:

- electoral procedure
- links with national parliaments
- provisions concerning incompatibility
- number of Members
- transitional arrangements.

The working party of the Council of Ministers did not reach agreement on these problems.

The rapporteur therefore made special efforts to review the solution proposed in 1960 in the light of the discussions in the Political Affairs Committee and the statements of public figures from the Member States.

(a) Electoral procedure

28. With regard to the uniform electoral procedure called for in Article 138 (3) of the EEC Treaty (Articles 21 (3) of the ECSC Treaty and 108 (3) of the EAEC Treaty), he came to the conclusion that this concept is to be interpreted in the light of the practical and political conditions prevailing in the Member States. The question is one of making use of common democratic tradition for European elections.

29. All States share the principle of universal, free, equal and secret elections. These principles should therefore also be applied to European elections. In detail, however, the national electoral systems vary considerably: in six States a simple or modified system of proportional representation is used (Belgium, Denmark, Ireland, Italy, Luxembourg, Netherlands); in France and the United Kingdom voting is by a modified majority system, and in the Federal Republic of Germany a mixed system is used. Some of these systems are based on long tradition and are firmly implanted in the public consciousness. The rapporteur, therefore, does not feel that the time has come to propose standardization. The discussions in the Political Affairs Committee and talks in the Member States gave him the impression that the persons with whom he spoke shared a common view of the situation.

30. The same is true of the conclusion drawn from this, namely that the new draft convention should contain common provisions only when this is absolutely essential and possible. Although this approach does not differ in principle from the basis of the 1960 draft, the rapporteur comes to different conclusions on individual questions.

In the 1960 draft, five matters were settled jointly:

- date of election
- age of electors
- eligibility for election
- admissibility of parties
- term of office.

31. The views expressed during the preparation of this report showed that a majority were in favour of fixing a single date for the election. Opinions were, however, divided on the advantages and disadvantages of holding national elections (at local, regional or national level) and European

elections simultaneously. Many of the people involved in the talks thought it desirable to emphasize the special character of European elections by separating them from the other elections, but reference was also made several times to the problem of turnout and the matter of cost. These arguments call for a pragmatic solution, under which elections would be held simultaneously in all Member States, but the possibility of holding other elections in the Member States at the same time should not be ruled out.

The rapporteur would prefer the voters' attention to be primarily drawn to the European level when the elections are held: national general elections should therefore not be held at the same time.

32. It is proposed that the first elections should be held not later than the first Sunday in May 1978. This date is close to the anniversary of the declaration by Robert Schuman, the former French Foreign Minister, on the foundation of the European Steel and Coal Community which is already celebrated each year. The time until 1978 seems sufficient for making the necessary preparation (consideration by the Council, ratification by the Member States, introduction of national electoral laws and actual preparation of the elections). The European Parliament hopes, however, that the elections will if possible be held at an earlier date.

33. The 1960 draft fixed a uniform voting age of 21 for elections to the European Parliament. Since then political trends in the Member States have been away from this. Six of the nine Member States have lowered the voting age to 18, and it is possible that the other States (Belgium, Denmark and Italy) will follow their example. It therefore seems inappropriate to undertake a standardization in anticipation of these political developments.

34. The same reservations in respect of the 1960 proposals apply to eligibility for election. The 1960 draft considered 25 a suitable minimum age. Because of considerable differences between individual Member States, however, it seemed right to dispense with this provision. At present, the age of eligibility is 21 in four of the nine Member States, while 25 is the minimum in three others. In addition, there are differences between the individual chambers, 40 being the minimum age in some cases.

The rapporteur's talks in this area showed a particularly strong desire for the currently valid national provisions to be retained. If the present trend in West Germany, Ireland and the United Kingdom continues, whereby the voting age is fixed at 18 and the age of eligibility at 21, a de facto standardization could occur in the foreseeable future.

35. The differences between the political and legal status of parties which still exist in the Member States may make it impossible to fix criteria for participation in European elections. For example, parties may be banned in West Germany, and the Fascist party is banned in Italy. In accordance with the 1960 draft, it is therefore suggested that the respective national provisions be observed. All those with whom the rapporteur spoke agreed to this solution.

36. The term of office is one provision which must of necessity be standardized. The 1960 draft proposed that the European Parliament should be elected for a period of 5 years. In the light of his talks, the rapporteur decided to retain this proposal. The practice in the Member States varies from four years (Belgium, Denmark, West Germany, Netherlands) to five years (France, Ireland, Italy, Luxembourg, United Kingdom) but the majority of those consulted - even in States where the term is shorter - favoured a five year mandate.

(b) Links with national parliaments

37. During the preparatory work on the 1960 draft it was generally agreed that links between the European Parliament and the national parliaments should be maintained. This raises the problem of how the continuation of the dual mandate in one form or another can be reconciled with the need to eliminate the attendant difficulties. The draft convention contained as the proposed solution a provision to the effect that during the transitional period one-third of the Members of the European Parliament should be nominated by national parliaments. The final decision on the compatibility of the national and European mandate should be taken by the European Parliament.

38. In the rapporteur's view the question of direct election should be viewed separately from the problem of the most suitable manner of preserving links with national parliaments. The need for such links is as unquestionable as the need for direct elections. The question of the European Parliament's national basis would be quite different for a directly-elected Parliament than for the European Parliament as now constituted. At present, the existence of the European Parliament is virtually dependent on the national parliaments, whereas a directly-elected European Parliament would have its own legitimation and basis of recruitment. As a result, links with national parliaments would continue to be significant only from the functional point of view.

39. Only if the question is considered in such a way as to take actual needs into account can Members' working conditions be permanently improved by eliminating the dual mandate and efficient links with national parliaments developed. It is quite conceivable that individual Members may accept both mandates because they consider themselves in a position to discharge them both adequately or because measures are taken in national parliaments to prevent a double workload.

It is also conceivable that ties between a directly-elected European Parliament and national parliaments could be developed without having the same persons as members of both.

40. The rapporteur believes it is too early to intervene in any way in the process of defining relations between national parliaments and the European Parliament; that process is still far from complete. He, therefore, concludes that it should be possible but not compulsory to hold a national mandate as well as a European mandate.

It is to be hoped that the national parliaments will take measures in their own interests as well as in the European interest to facilitate the work of Members who wish to retain their national mandate, so as to enable them to carry out their European duties under the best possible conditions.

The solution proposed for the United Kingdom by former Foreign Secretary Mr Michael Stewart, that European MPs in the House of Commons should have a special status, or the comparable situation of the Berlin MPs in the Bundestag to which the German spokesman drew attention appear to be suitable models; of course, the national parliaments may arrive at other solutions to improve the working conditions of Members of the European Parliament.

(c) Incompatibility of European Parliament membership with the holding of office in the Community

41. The problem of incompatibility between membership of the European Parliament and the holding of office in the Community was studied in depth by both the Working Party and the Political Affairs Committee from 1958-60. As a consequence, Article 8 of the draft Convention contained a list of offices in the Community, the holding of which was held to be incompatible with membership of the Parliament. There was little difficulty in reaching agreement on most of these offices, but a lively debate broke out in both the Working Party and the Committee as to whether members of the (then) High Authority of the ECSC and of the EEC and the Euratom Commissions should be eligible for election to the European Parliament. By a very narrow margin the Committee finally decided that these persons should be ineligible.

42. Those consulted in national capitals by the Rapporteur on the whole followed this view. It was felt that to retain the distinction between the Commission, which is the executive of the Community, and the Community's Parliamentary Assembly would help to bolster the independence of the Parliament as against the Commission, and to strengthen the position of political groups in the Parliament.

43. Having considered this matter carefully, and in the light of the detailed debate which took place in 1958-60, the Rapporteur has retained the Article in the draft Convention on this subject effectively without change. Along with the Community posts set out therein which are to be incompatible with European Parliament membership, he has proposed the retention of the incompatibility provision for members of the governments of the Member States. This was decided on in 1960 by a very large majority, and the increasing dominance among the Community institutions of the Council of Ministers since 1960 serves only in the view of the Rapporteur to reinforce this decision.

During the discussions in the Political Affairs Committee the proposal was made to delete the incompatibility between membership of the European Parliament and that of the Economic and Social Committee and of the Consultative Committee of the ECSC. The reason given was the purely consultative status of both institutions. The majority of the committee, however, favoured retention of the incompatibility, to avoid the risk of a representative having both to advise and to decide on the same subject.

(d) Number of representatives

44. The Working Party gave in 1960 cogent and practical reasons to support its decision that an increase in the membership of the European



Parliament would be a necessary concomitant of the introduction of direct elections. It also decided that this increase should be on the basis of the weighting then existing, by which Luxembourg had 6 representatives, Belgium and the Netherlands 14, and the other three countries 36. The major debate in the Working Party concerned the factor by which the existing number of 142 Members should be multiplied; the factor finally agreed upon was three, giving a Parliament of 426 Members. Following enlargement, a three-fold increase would produce a Parliament of 594 Members, which the Rapporteur considers to be considerably too large in the present situation of the European Parliament. However, taking into account the future development of the Communities, especially the growing powers of the European Parliament, the majority of the Political Affairs Committee considered the figure of 550 representatives to be suitable. The European Parliament decided, on the basis of the amendment of the Legal Affairs Committee to fix the total number at 355 representatives.

45. As regards the allocation of seats among the Member States, the Rapporteur proposed several criteria. These are:

- (a) adequate representation of all the peoples in Parliament
- (b) balanced representation of all the citizens of the Community
- (c) representation of all political groupings represented in a Member State
- (d) as far as possible, representation of national minorities in the European Parliament
- (e) the smooth functioning of Parliament.

46. It was suggested further that a minimum number of Members should be established, in order to safeguard the legitimate interests of the smaller States; and that, within specific maximum limits for the larger States, the number of representatives should be fixed on a proportional basis.

47. His consultations confirmed the Rapporteur in his opinion that no country should have fewer Members than at present. There was also general agreement that Luxembourg, being so much smaller than any other country, should be treated as sui generis; Luxembourg should therefore retain 6 Members, and should be omitted as a special case from proportional calculations. On the other hand, there was little support from those consulted for the Rapporteur's suggestion of specific maximum numbers of Members for the larger states. The Rapporteur's suggestion of a proportional system (excluding Luxembourg) for fixing the number of representatives received widespread support.

48. The Rapporteur interprets the feeling of those whom he consulted as leaning towards a moderate increase in the number of Members with the introduction of direct elections. This increase should not in their

opinion be so large as to preclude the possibility of a subsequent increase without creating a Parliament of unmanageable size. And it should be large enough to enable every country (Luxembourg apart) to gain a reasonable increase; in addition, it was argued that there should be adequate representation of national political interests and of regions in the European Parliament. The majority of the Political Affairs Committee, however, considered it important not to make the total number of representatives dependent on the present tasks and powers of the Parliament; instead, developments to be expected or worked for should be taken into account.

49. It was suggested that there should be sufficient representatives from the smaller countries to enable each Member to specialise in only one subject in the European Parliament. This would ease the burden of the dual mandate, for example, by enabling each Member to confine his attention to a single committee of the European Parliament. It was also suggested that, if a system of exact proportional representation was adopted, the smaller countries could only find adequate representation in a second Chamber. The Rapporteur preferred to seek adequate representation for smaller countries through a modified system of representation proportional to population; while the concept of a second Chamber is interesting it does not in his view fall within the scope of his report.

50. After careful consideration the Rapporteur had selected the figure of 355 as presenting in his view the optimal balance between total numbers national representation (including that of national minorities) and the strength of political groups. However, the majority in the Political Affairs Committee preferred a higher total number of representatives and a closer correlation between the population of each state and its representation in the European Parliament. The following table indicates the effect of increasing the number of representatives to this figure, retaining for Luxembourg six seats as at present and thereafter allocating seats proportionally, with a built-in weighting in favour of the smaller countries in the Rapporteur's proposal. Parliament decided that the total number of seats should be 355.

National Representation in the European Parliament

<u>Country</u>	<u>Present Composition</u>	<u>Decision of Parliament</u>	<u>Proposal of Political Affairs Committee<sup>1</sup></u>
Belgium	14	23	24
Denmark	10	17	14
Germany	36	71	128
France	36	65	108
Ireland	10	13	10
Italy	36	66	113
Luxembourg	6	6	6
Netherlands	14	27	31
United Kingdom	<u>36</u>	<u>67</u>	<u>116</u>
	<u>198</u>	<u>355</u>	<u>550</u>

(e) Transitional provisions

51. The Report of Mr Faure makes it clear that the concept of a transitional period was introduced into the 1960 draft Convention primarily to preserve the link with national Parliaments, and also because of uncertainty both as to the manner in which European elections could be organised and as to their results. The draft Convention provided, in brief, that one-third of the Members of the European Parliament were to continue to be nominated by national Parliaments during a transitional period, and that this period should continue until the end of the third phase of transition towards a Common Market. Until then, the existing national electoral systems were to be used, but the Schuijt Report expressed the wish that Member States should in framing electoral legislation take into account the common principles set out in the Convention. These principles were to be regarded as elements of the 'uniform procedure' called for by the European Treaties.

<sup>1</sup> The Political Affairs Committee's proposal was based on the following system:

- (a) States with a population below 1 million qualify for 6 seats.
- (b) Each State with a larger population receives 1 extra seat for each additional 500,000 inhabitants or part thereof.

52. The Rapporteur believes that the concept of a transitional period, which derives basically from Article 8 of the EEC Treaty, has now become obsolete. The third stage of progress towards a Common Market ended in 1970 and no proposals for further stages have been advanced. Again, to reintroduce the concept at this stage in the development of the Community might be confusing without a clear indication of what arrangements would exist at the end of such a period.

## VI. CONCLUSIONS

53. Article 7 of the new Convention, while stating that the electoral system should fall within the competence of each Member State, nevertheless provides that the European Parliament should draw up by 1980 a proposal for a uniform electoral system. The Council of Ministers should thereafter decide on what provisions to recommend to Member States in regard to a uniform electoral system.

54. Apart from those aspects of electoral procedure covered in detail in this report, others have been discussed which would be appropriate for discussion by the study group to be set up by the European Parliament. First, it was emphasised that the electoral system should be drawn up in such a way as to avoid a situation of 'winner takes all', i.e. the accretion by one party of a certain number of votes, enabling it to take all the European Parliament seats in one Member State. Second, positive safeguards for the minority groups in each Member State will have to be built in to the future electoral system. Third, the Bill for direct elections currently under consideration in the Belgian Parliament provides in Article 4 that 'nationals of the Member States of the European Communities who have their residence in Belgium may take part' in the election to the European Parliament under the same conditions as Belgian citizens. The right of Community citizens living in other Member States to vote in direct elections was also raised in the consultations. This is a fundamental issue of some importance both for legitimation of Parliament and for the rights of those EEC citizens residing and working in other Member States; it is fit that it should be considered by the study group to be set up by Parliament following the adoption of the new Convention.

## Powers of Parliament

55. The Dehousse Report stated that direct elections would endow Parliament 'with a legitimacy and strength from which it will draw political power'.<sup>1</sup> Throughout all its deliberations in 1958-60 the Working Party constantly took into account and discussed the question of the powers of Parliament. But the majority of members of the Working Party and the committee feared that the introduction of direct elections might be threatened if too close a link were to be forged between direct elections and the question of powers. They therefore regarded direct elections as a means of ultimately attaining a strengthening of Parliament's powers. Since 1969 the latter have been increased slightly in practice, and if the Council's proposal of June 1974 on budgetary powers is agreed to, will be increased substantially in the near future. The Rapporteur is firmly of the conviction that there is no need to create links between the two issues which at present do not exist. The Report of the Vedel Working Party amply illustrated the dangers inherent in such a course.<sup>2</sup> In sum, the more powers Parliament acquires, the greater is the pressure for the legitimacy conferred by direct elections; and the sooner direct elections are achieved, the stronger the argument for the conferment of wider powers.

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<sup>1</sup> Dehousse Report, para. 28 . . .

<sup>2</sup> Report of the Working Party on the Enlargement of the Powers of the European Parliament, March 1972, Chap. V, I, European Communities Bulletin, Supplement 4/72.

OPINION

of the Legal Affairs Committee

Draftsman: Mr Hans LAUTENSCHLAGER

I

1. The Treaties establishing the European Communities contain identical provisions concerning the formation and composition of the European Parliament<sup>1</sup>:

1. The Assembly shall consist of delegates who shall be designated by the respective Parliaments from among their members in accordance with the procedure laid down by each Member State.

2. The number of these delegates shall be as follows:

Belgium.....	14
Denmark.....	10
Germany.....	36
France.....	36
Ireland.....	10
Italy.....	36
Luxembourg.....	6
Netherlands.....	14
United Kingdom.....	36

3. 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.

2. At the present time the European Parliament is constituted in accordance with the procedure described in paragraph 1 of these provisions; seats are allocated in accordance with paragraph 2. However, as shown by the task entrusted to the European Parliament and the Council by paragraph 3, this 'indirect' election procedure is to be replaced by 'direct universal suffrage'. The purpose of the Draft Convention prepared by the Political Affairs Committee is to introduce a new election procedure on the basis of Article 138 (3) EEC Treaty<sup>2</sup>. It should not be confused, therefore, with the proposals under discussion in various Member States for changes in the relevant national systems of appointing delegates. As the text

<sup>1</sup>Article 21 ECSC Treaty  
Article 108 EAEC Treaty  
Article 138 EEC Treaty

<sup>2</sup>Article 21 (3) ECSC Treaty; Article 108 (3) EAEC Treaty

of the Treaty already shows the European Parliament can only directly influence the form of the elections by direct universal suffrage by way of paragraph 3.

As long as the European Parliament is still made up of representatives designated by the national parliaments from among their members, it is a matter for the individual Member States to establish the details of this procedure and amend it if necessary.

3. Any draft convention, but particularly the draft text for the introduction of elections by direct universal suffrage, which is so important, always raises an abundance of additional legal problems. The wording of the draft of the Political Affairs Committee and the lengthy explanatory statement given by its rapporteur show that the legal aspects have been thoroughly examined.

The Legal Affairs Committee will therefore confine itself to a few further comments on the following problems:

- (a) Relationship between paragraphs 1 and 2 of Article 138 EEC Treaty (Article 21 ECSC Treaty, Article 108 EAEC Treaty) and paragraph 3 of those provisions
- (b) The concept of a 'uniform election procedure'
- (c) Legal aspects of the links with national parliaments
- (d) Incompatibility provisions
- (e) Number of Members
- (f) Transitional period
- (g) Article 14 of the Draft Convention
- (h) Further consideration of the Draft Convention by the Council
- (i) Action against the Council for failure to act

## II

- (a) The relationship between paragraphs 1 and 2 of Article 138 EEC Treaty (Article 21 ECSC Treaty, Article 108 EAEC Treaty) and paragraph 3 of those provisions
4. As already mentioned, the first two paragraphs of these provisions constitute the present legal basis for both the allocation of seats and the procedure for the designation of delegates. This situation must necessarily continue until a European Parliament meets which has been elected by direct suffrage on the basis of a procedure introduced in accordance with paragraph 3. It should be noted, therefore, that these provisions which have been in force hitherto will not become

ineffective on the adoption of a convention for the introduction of elections by direct universal suffrage. Article 15 (2) of the Draft Convention adopted by the Political Affairs Committee takes this into account.

5. Therefore, even if it is possible to hold elections to the European Parliament by direct universal suffrage by 1978 or even before, the Parliaments of the Member States will retain the right, until the directly elected Parliament meets, to lay down independently the details for the appointment of the members of the European Parliament until that date. This is not the place to analyse the scope of Article 138(1) of the EEC Treaty or, in particular, to deliver an opinion as to how far the various schemes adopted at national level to establish the link between the Parliaments by elections comply with the Treaty as regards the appointment of the national delegations to the European Parliament.

In any case - from the legal point of view - the discussion and adoption of a draft submitted by the European Parliament pursuant to Article 138 (3) does not affect the application and amendment of the national rules until a directly elected parliament meets.

6. With regard to the relationship between the individual paragraphs of Article 138 EEC Treaty (Article 21 ECSC Treaty, Article 108 EAEU Treaty), it should be pointed out that the allocation of seats in paragraph 2 is clearly limited to the present election procedure referred to in paragraph 1. If this is replaced by a new election procedure, it must be established at the same time whether the allocation of seats is to be retained or altered. The proposal of the Political Affairs Committee includes a new allocation of seats, thus establishing the necessary link with the election procedure.

(b) The concept of a 'uniform election procedure'

7. The interpretation of this concept was already examined in detail by the authors of the first Draft Convention submitted by Parliament in 1960. The rapporteur of the Political Affairs Committee has continued this discussion by proposing that the term 'uniform election procedure' should be interpreted flexibly, i.e. in accordance with the actual state of common political procedures, and only certain basic requirements of democratic elections should be declared indispensable. These basic requirements are that European elections must be free, equal, secret, direct and general. The Legal Affairs Committee assumes that these basic requirements are in fact met by the national electoral systems to be used on a temporary basis according to Article 7(2).



The concept of 'uniformity' will acquire a different value when further parallels have developed between the election procedures of the individual Member States. This approach therefore requires the development of a more standardized European election system at a later date. The Draft Convention makes provision in Article 7 (1) for Parliament to undertake this task.

8. The Legal Affairs Committee considers this to be a suitable way of taking advantage of the common features existing at present between the election procedures of the Member States for the first European elections. This method is also admissible, since, according to the case law of the European Court of Justice, it is now acceptable in Community law for a legal act - i.e. in this case a uniform election procedure - to be introduced in stages.
9. When defining this uniform election procedure, which has yet to be worked out, the cooperation of the Legal Affairs Committee should be sought. The comments following the Draft Convention should therefore be amended to this effect.
10. For the first direct elections the Draft Convention refers mainly to the national rules applying at the time. Only a few provisions, viz.
  - date of the election (Articles 9, 10, 13)
  - duration of the mandate (Article 3)
  - scrutiny (Article 11)

are standardized. With regard to scrutiny, judicial control at Community level has rightly not yet been introduced. The Rapporteur of the Political Affairs Committee is considering whether to involve the European Court of Justice at the point when the elections take place in accordance with the uniform procedure. For the moment, the national authorities are responsible for ensuring that the elections are held in accordance with the law (i.e. in accordance with the national electoral law). They are also competent, however, for establishing whether this electoral law has been infringed. The European Parliament is already responsible for the verification of credentials; direct elections will be even more reason for it to retain this responsibility.

(c) Legal aspects of the links with national parliaments

11. Article 5 of the Draft Convention provides for cumulation of the national and the European mandates. This eliminates the rigid ruling of the 1960 draft which prescribed that one-third of the delegates to the European Parliament must simultaneously be members of the national parliaments.

The question arises as to whether it is advisable for members of the national parliaments to stand for elections to the European Parliament. The organizational links between the two parliamentary levels have not as yet been developed to any great extent; however, does a link between the parliaments not involve a certain infringement of the sovereignty of the European Parliament and thereby detract from the significance of direct universal suffrage within the meaning of Article 138(3) of the EEC Treaty? In any case it is essential to remove the compulsion to exercise a dual mandate.

In the long term the independent position of the European Parliament must be emphasized by the absence of dual mandates. The Legal Affairs Committee therefore suggests a new wording for Article 5. This will ensure that dual mandates can only be held for a limited period. Article 5 should read as follows:

'After the entry into force of the procedure provided for in Article 7(1), membership of the European Parliament shall not be compatible with membership of a Parliament of a Member State.'

In his first term of office a member of a national parliament elected to the European Parliament can choose on the basis of the specific situation in his country and the time at his disposal, whether he wishes to exercise a dual mandate or not. The national parliament can give no instructions on this choice.

The wording of Article 5 makes it clear, however, that the national mandate has no legal effects on the European mandate. Accordingly, if a directly elected member who is still exercising a dual mandate loses his national seat (for instance, because of differences in the length of the legislative period), his European mandate will simply continue. Likewise, it is left to the national legislator to alleviate the effects of exercising a dual mandate for instance by creating a special status as regards membership of the national parliament for members with a dual mandate.

The electoral principles mentioned under 7 above do, however, set a limit to the freedom of action of national legislators. It would be inadmissible for a national electoral law to lay down that only persons who are members of a national parliament could stand for election to the European Parliament.

(d) Incompatibility provisions

12. The incompatibility provision in Article 6 of the Draft Convention is in two parts: a definitive list of incompatibilities with various offices in the Community, and a broad reference to corresponding national provisions. This combination is advantageous. It establishes with the desired clarity the principle that a person exercising different functions should not decide on the same matter. The reference to national law, moreover, allows different usages in the Member States to be taken into account. Thus, for example, the

times and legal effects of the resignation of a national official from public service in order to sit in parliament differ from country to country.

13. As regards employees of the European Communities, it should be noted that the Staff Regulations (Article 15) already provide for leave for the purpose of candidature for and exercise of elective public office.

(e) Number of Members

14. The determination of the total number of Members of a directly elected European Parliament and of the allocation of seats to the individual Member States is primarily a political problem, not a legal one.

The distribution of seats should, of course, not lead to discrimination against individual states or against the citizens of a state.

Both the Political Affairs Committee rapporteur's original proposal and the text adopted by the majority in the committee reflect an endeavour to allow all citizens as far as possible the same influence on the composition of the European Parliament, and also to guarantee representation of all states. The compromise adopted for this purpose cannot be criticized on legal grounds.

15. Nevertheless, the Legal Affairs Committee considers it desirable to decide the total number of seats according to the functions of the European Parliament. The proposed figure of 550 seats means almost a tripling of the present figure. The committee is of the opinion that an increase to 355 seats is sufficient to take account of the foreseeable development of the European Parliament - at least for the first two terms. It therefore proposes that this figure, with the distribution of seats on which it is based, be reinstated, and that subsequent experience and developments be allowed to decide whether the number of seats should be raised.

(f) Transitional period

16. In the Draft Convention the term 'transitional period' no longer occurs, by contrast with the 1960 proposals. This is in accordance with the Treaties, which do not provide for any transitional period in connection with the introduction of universal direct elections. Elsewhere in the EEC Treaty (Article 8), this term is used to denote the transitional period for the establishment of the common market, but this period has long expired.

The considerable delays which have already taken place in the introduction of direct elections also make it inadvisable to propose a further transitional period.

On the other hand, the preconditions for the creation of certain features - for instance a completely uniform electoral system - can only develop under a directly elected parliament.

17. Here, too, the Draft Convention has been worded very flexibly, to make it possible to hold the first and also the subsequent elections under

the provisions of the Draft Convention, or else - provided the necessary consensus can be arrived at - apply a new system based on further progress towards integration. In view of the abovementioned Court of Justice decision on the application in stages of a legal act, there can be no objection to the Convention taking this form.

(g) Article 14

18. Apart from the uniform electoral system, which is to be introduced through the classical procedure for amending the Treaties (the powers contained in Article 138 (3) being transferred to Article 7 (1), the adaptations and additions to the Treaty will otherwise be effected in accordance with the procedure which is essentially that of Article 235 (EEC).

As regards the legal considerations on this provision, reference may be made to the Political Affairs Committee rapporteur's comments on Article 14. It should be recalled that the draft provides Parliament with the right of co-decision on amendments or supplements to the Treaty. In view of Parliament's position as the body mainly affected, it is to be hoped that this formulation can be maintained in the further discussions on the draft.

(h) Further consideration of the Draft Convention

19. According to the text of the Treaties, direct elections to the European Parliament by universal suffrage are to be introduced by a special procedure. This procedure provides essentially for three stages:
- submission of proposals by Parliament
  - consideration of Parliament's proposals by the Council, and their rejection or recommendation to the Member States for adoption
  - the Treaty to be concluded among the Member States<sup>1</sup>
20. As regards the further consideration by the Council, the text of the Treaties is not absolutely clear whether - and if so how far - the Council can depart from Parliament's proposals. The translations of the text concerned differ considerably from each other:

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<sup>1</sup> Article 138(3) does not make it compulsory for direct elections to be introduced by way of a Treaty between the Member States (see the exception in Article 236 EEC), but this method is the most suitable.

'Der Rat erlässt einstimmig die entsprechenden Bestimmungen und empfiehlt sie den Mitgliedstaaten zur Annahme gemäss ihren verfassungsrechtlichen Vorschriften.'

'De Raad stelt met eenparigheid van stemmen de desbetreffende bepalingen vast, waarvan hij de aanneming door de Lid-Staten overeenkomstig hun onderscheidene grondwettelijke bepalingen aanbeveelt.'

'Le Conseil statuant à l'unanimité arrêtera les dispositions dont il recommandera l'adoption par les Etats membres, conformément à leurs règles constitutionnelles respectives.'

'Il Consiglio, con deliberazione unanime, stabilirà le disposizioni di cui raccomanderà l'adozione da parte degli Stati Membri, conformemente alle loro rispettive norme costituzionali.'

'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.'

'Rådet fastsætter herom med enstemighed forskrifter, som det henstiller til Medlemsstaterne at vedtage i overensstemmelse med deres forfatningsmæssige bestemmelser.'

21. However, the general sense of Article 138(3) is that it is incumbent on the Council and Parliament to cooperate in meeting the obligation laid down therein. Even though the two institutions have different tasks to carry out, these tasks each serve the common goal which both institutions must endeavour to attain jointly.

From this viewpoint, it is unthinkable for the Council to make significant changes to the Draft Convention without the approval of Parliament. Even in the ordinary legislative procedure, this would initiate renewed consultation of Parliament. In the case of the consideration and adoption by the Council of the Draft Convention on direct elections, it is all the more necessary for Parliament's agreement to be ensured.

22. The Convention introducing elections by direct universal suffrage is to enter into force when all Member States have deposited the instrument of ratification. If the agreement of all the states to the holding of these elections cannot be obtained by 1978, the problem will arise whether the text of the Treaty is to remain a dead letter, or else those states who have ratified the convention should not then agree to hold direct elections.

It seems premature to provide regulations on this point now, since such provisions might even increase the delaying effect mentioned.

(i) Complaint of failure to act

23. It has already been mentioned that the Council and Parliament are obliged to work towards the attainment of the Treaty objective of elections by direct universal suffrage.

The Council must take a decision on Parliament's plan within a reasonable period. It is not for us here to consider whether a complaint by Parliament against the Council on grounds of failure to act in respect of the direct election plans, on the basis of Article 175 EEC, would have been successful in past years.

The admissibility of such a complaint can certainly be regarded as the prevailing opinion today<sup>1</sup>.

As regards grounds for a complaint, the submission of this new Draft Convention sets new dates. If it becomes apparent that the Council is not using this period actively in order to reconcile differing views and to seek a compromise, but is again acting passively over a long period, then a complaint of failure to act would be justified.

It is to be hoped that these considerations will remain hypothetical and that the Council will pass Parliament's draft to the Member States without delay.

24. The Legal Affairs Committee

- recommends the European Parliament to consider how the introduction of direct elections can be linked with the extension of the powers of the European Parliament, for instance by
  - granting comprehensive budgetary powers,
  - the introduction of a legislative right, to be supervised by a second chamber,
  - a different allocation of the right of initiative,

since it should be ensured that in complying with Article 138, the all-round significance of this provision for changing the status of the European Parliament is not forgotten;

- welcomes the fact that this Draft Convention has been submitted;
- approves the draft, with the above reservations;
- hopes that it will be asked to play a part in the working out of the common electoral system.

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<sup>1</sup> See the communication on the opinion requested by President Behrendt, Annex to the Bulletin of the European Parliament No. 12/1972.

REPORT

of the Political Affairs Committee

on the adoption of a Draft Convention introducing  
elections to the European Parliament by direct  
universal suffrage (Doc. 368/74)

AMENDMENTS No. 1<sup>1</sup> and No. 2<sup>2</sup>

tabled by:

Mr H. LAUTENSCHLAGER

on behalf of the Legal Affairs Committee

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<sup>1</sup>adopted by 15 votes in favour with one abstention

<sup>2</sup>adopted by 8 votes in favour and 7 votes against

Amendment No. 1

Article 2(1) of the Draft Convention on elections to the European Parliament by direct universal suffrage to read as follows:

Article 2

1. The number of representatives elected in each Member State shall be as follows:

Belgium .....	23
Denmark .....	17
Germany .....	71
France ....	65
Ireland .....	13
Italy .....	66
Luxembourg .....	6
Netherlands .....	27
United Kingdom .....	67
	<hr/>
	355



## EXPLANATION

The aim of the amendment is to restore the number of seats originally proposed by the rapporteur, for the following reasons:

The number of Members of the European Parliament has a triple function:

- to ensure fair representation of all the citizens of the Community;
- to ensure conditions such that the European Parliament can exercise its rights and discharge its duties in the best possible way;
- provision must be made for the possibility of future increases in numbers in the event of enlargement of the Communities (e.g. possible accession of Greece, Portugal or Norway) or growth in Parliament's workload.

An increase in the number of seats to 550 would not now fulfil these requirements. In particular, the accession of one of the abovementioned states would tend to enlarge the European Parliament unduly

to almost 700 Members. It is to be feared that this great size would not be beneficial to the quality of Parliament's work. Moreover, the existing ratio of representatives from small and medium states to representatives from large Member States would be abruptly changed to the detriment of the smaller states.

According to the draft prepared by the Political Affairs Committee, Ireland for example would have 10 representatives as at present, Denmark's representation would increase to 14, whilst France, Italy, the United Kingdom and Germany would have their number of representatives virtually tripled.

The amendment proposed by the Legal Affairs Committee, on the other hand, envisages 13 representatives for Ireland, 17 for Denmark and for the four Member States with the highest population increases which would in no case go beyond double the present figure.

The Legal Affairs Committee's proposal for the distribution of seats between the Member States is also based on a mathematical model. The essential objectives of this model are as follows:

- so far as possible, a proportional ratio would be established between the population of a State and the number of its representatives in the European Parliament,
- the new distribution of seats must not lead to a reduction in the present number of representatives from any one side,
- the size of the delegation to be elected in each State should be such that all significant political forces in that State can be represented in the European Parliament.

Only a compromise can enable these objectives to be achieved to any extent. The proposed figure of 355 representatives and the distribution of seats between the Member States on the basis of the following calculation are fair and adequate and make provision for any growth in the workload of the European Parliament and possible enlargement of the Communities:

- (a) Up to a population of 1 million each State receives 6 seats.
- (b) States with a population between 1 million and 2.5 million are given 6 further seats.
- (c) Up to a population of 5 million, each State receives 1 further seat for each additional 500,000 inhabitants.
- (d) For a population between 5 million and 10 million each State receives 1 further seat for each additional 750,000 inhabitants.
- (e) For a population between 10 million and 50 million each State receives 1 further seat for each additional 1 million inhabitants or part thereof.
- (f) For a population exceeding 50 million, each State receives 1 further seat for each additional 1.5 million inhabitants or part thereof.

The seat distribution provided for in Article 2 results from the application of this system to Member States' populations in 1973. Details will be found in the following table:-

	Popul- ation (in millions) 1973	(a)		(b)		(c)		(d)		(e)		(f)	
		Seats (1st count)	Remain- der (in millions)	Seats (2nd count)	Remain- der (in millions)	Seats (3rd count)	Remain- der (in millions)	Seats (4th count)	Remain- der (in millions)	Seats (5th count)	Remain- der (in millions)	Seats (6th count)	Total
Belgium	9.7	6	8.7	6	7.2	5	4.7	6	-	-	-	-	23
Denmark	5.0	6	4.0	6	2.5	5	-	-	-	-	-	-	17
Germany	61.7	6	60.7	6	59.2	5	56.7	6	51.7	40	11.7	8	71
France	51.7	6	50.7	6	49.2	5	46.7	6	41.7	40	1.7	2	65
Ireland	3.0	6	2.0	6	0.5	1	-	-	-	-	-	-	13
Italy	54.3	6	53.3	6	51.8	5	49.3	6	44.3	40	4.3	3	66
Luxembourg	0.35	6	-	-	-	-	-	-	-	-	-	-	6
Netherlands	13.3	6	12.3	6	10.8	5	8.3	6	3.3	4	-	-	27
United Kingdom	55.8	6	54.8	6	53.3	5	50.8	6	45.8	40	5.8	4	67

AMENDMENT No. 2

Article 5 of the Draft Convention on elections to the European Parliament by direct universal suffrage to read as follows:

'After the entry into force of the procedure provided for in Article 7(1), membership of the European Parliament shall not be compatible with membership of a Parliament of a Member State.'

EXPLANATION

A representative should be permitted to combine a national parliamentary mandate with a European mandate only during a transitional period. This dual mandate will no longer be justified after the introduction of the uniform election procedure. The two parliamentary levels should function quite independently and in parallel.

At this stage of the Community's development there would seem to be no further need for individual states to exercise influence on Community legislation in the European Parliament. In the discussions so far held on the future institutional structure an outline has emerged for a Chamber of States which would enable the Member States to influence Community legislation.

It would significantly disturb the balance of the future system if representatives to the European Parliament were tied to the national parliaments by the maintenance of the dual mandate.