



**Tweede Kamer**  
DER STATEN-GENERAAL



House of Representatives Position Paper on the  
reform of the European Elections Act



**The European Parliament resolution of 11 November 2015 on the reform of the elections act of the European Union (2015/2035(INL)) contains proposals from the European Parliament to revise the European Elections Act from 1976. The proposal has been made on the basis of Article 223 of the Treaty on the Functioning of the European Union and involves a special legislative procedure in which the national parliaments of the EU approve the proposal passed before it enters into force.**

## **Introduction**

In principle, the power and responsibility to organise parliamentary elections lies with national governments. Although the organisation of European elections clearly involves aspects that transcend individual nations, the Dutch House of Representatives (hereinafter: the House) takes the view that the European Parliament's legislative proposal to reform the European Elections Act regulates more than is necessary. The far-reaching harmonisation of electoral systems it proposes fails to honour the administrative traditions, political culture and national views on representation and democracy in the member states. In addition to that, the European Parliament's proposal also aims to settle issues on which there are significant differences of opinion at national level. The House takes the view that it is up to the member states rather than the EU to conduct these debates.

## **Rules on determining lists of candidates**

The proposal makes it compulsory for political parties to take account of transparent and democratic procedures and guarantee gender equality when determining lists of candidates. The proposal also attempts to harmonise the deadlines for submitting these lists. The House takes the view that these proposals undermine the independence of political parties and breach the constitutional right to freedom of association. Several political parties have long been promoting gender equality, whereas others have chosen not to do so. The obligation proposed by the European Parliament is at odds with the principle of pluralism. The House acknowledges that there have been cases in which lists of candidates in member states have been compiled at such a late stage that this has actually threatened the electors' awareness of the candidates. However, the House takes the view that the member state involved should be called to account for these kinds of excesses, rather than Europe-wide regulation being imposed.

## **Election date and exit polls**

For historic reasons, elections for the European Parliament are held on Thursdays in the Netherlands, rather than Sundays. The House does not consider it necessary for this day to be changed in order to enable elections to run in an orderly manner. The House notes in this regard that there have been no cases of insurmountable problems concerning the date on which elections are held in the last 40 years. The related prohibition on exit poll-based forecasts is an unjustified breach of press freedom. The House also takes the view that this measure poses a threat to the public counting of votes at polling stations. This could signify a serious undermining of constitutional democracy.

## **Compulsory visibility for European political parties**

The draft proposal calls on member states to enhance the visibility of elections and campaigns by

political parties. In addition, the logos and names of European political parties must have equal visibility on ballot papers as those of national parties. The House is of the opinion that political parties should determine their own campaign strategies and that government has no role to play in this. Likewise, it is up to the member states to determine how visible European political parties are on ballot papers.

### **Dual mandates and introduction of electoral threshold**

The extension of the ban on dual mandates to include membership of regional parliaments is undesirable. The same applies to the introduction of an electoral threshold. Member states apply different rules in these areas and there are no European-wide issues of an urgent nature that suggest the need for these rules to be harmonised. Although this promotes European uniformity, it creates diversification in the electoral processes at national level, leading to confusion among the electorate without resolving any European problem. Member states with a need for an electoral threshold are at liberty to change these rules within their national constitutional legal order.

### **Implementing acts**

In view of the fact that the organisation of elections lies at the heart of national sovereignty, the House of Representatives takes the view that implementing acts must be passed by unanimous vote in the Council, precisely in order to ensure that a new assessment is made on each occasion as to whether further proposals are indeed necessary. The House therefore opposes the adoption of implementing acts by qualified majority.

### **Optional provisions**

The House of Representatives has several other comments to make about optional provisions and recommendations in the proposal. Firstly, it is recommended that member states consider a harmonised age of 16 for eligibility to vote. The House of Representatives has serious doubts about the political desirability of this idea and believes it is better debated at national level. The House of Representatives also takes the view that the introduction of a joint constituency for 'Spitzenkandidaten' (each political family's candidate for the post of President of the Commission), is not necessary for holding European elections.

### **Rationale for the proposal**

Finally, the House of Representatives questions the underlying rationale for the proposal. The European Parliament erroneously sees the cause for the low levels of interest in European elections in the national character of these elections. Yet it is precisely at national level that an effective assessment can be made of how and in which way European elections should be configured. The proposal pays scant regard to citizens and the importance placed in our country on open and free elections in a representative democracy at an appropriate time and in a balanced way. The House takes the view that member states are themselves better placed to configure their own electoral systems and therefore calls on the European Union to reject the current proposal.

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