

INSTITUTIONAL INNOVATIONS

The EP Electoral Reform: Another “Brick” in the Union’s Democratic Construction?

Janis A. Emmanouilidis Senior Policy Analyst, EPC

Corina Stratulat Junior Policy Analyst, EPC

Many politicians and scholars have long considered that changing the rules of the electoral game would enable the European Parliament (EP) to deal with some of its most pressing problems, including the steady fall in turnout at European elections, limited popular recognition of the Parliament’s democratic functions, weak transnational parties, electoral campaigns dominated by national rather than European issues, and scant media coverage of EP activities.¹

The increase of the Parliament’s powers through the Lisbon Treaty and the ever-more prominent quest for a “cure” of the EU’s “democratic deficit” have given a fresh impetus to the idea of amending the electoral procedures. Moreover, the start of the countdown to the next EP elections means that any attempt to revise the system by 2014 has to begin without much delay.

To that end, the European Parliament has in the first half of 2011 adopted a proposal to modify European electoral rules in due course for the 2014 elections. The report prepared by Member of the European Parliament (MEP) Andrew Duff aims to increase “the legitimacy and efficacy of the Parliament by strengthening its European democratic dimension”.² What are the key elements of the proposal? And is it likely to meet its ambitious objectives?

1. See Andrew Duff, “Post-national democracy and the reform of the European Parliament”, Policy Paper 42, Notre Europe, 2010; and Simon Hix and Sara Hagemann, “Could changing the electoral rules fix European Parliament elections?”, Working Paper, London School of Economics and Political Science, 2008

2. Draft report on a proposal for a modification of the Act concerning the election of the members of the European Parliament by direct universal suffrage of 20 September 1976, Committee on Constitutional Affairs, rapporteur Andrew Duff, PE440.210v03-00, p. 6

Four reform pillars

The electoral reform proposed by MEP Andrew Duff rests on four main pillars:

- The election of 25 additional MEPs by a single constituency from the whole territory of the EU. The candidates are to be drawn by European parties from at least one third of Member States, and must compete on gender-balanced, transnational lists. Each citizen will be able to cast one vote for the EU-wide list and another for the national or regional list. Voting for the European constituency must be in accordance with the preferential semi-open list system, whereby the elector can choose to vote for the party list en bloc or an individual candidate.
- A shift in the timing of European elections from June to May.
- The amendment of the 1965 Protocol on Privileges and Immunities with a view to establishing a uniform supranational regime for MEPs.
- A distribution of the existing 751 seats on the basis of a mathematical formula to reflect demographic changes in the resident populations of the Member States and to respect the principle of “degressive proportionality” enshrined in the Lisbon Treaty (Article 14 Treaty on European Union (TEU)).

The adoption of the three latter reform items would – according to the draft proposal – require an amendment of the “Protocol (No 7) on the Privileges and Immunities of the European Union” and of the 1976 Elections Act. With regard to the 25 additional MEPs, the report calls for an amendment of Article 2 TEU. This would entail the application of the ordinary treaty revision procedure, which foresees an Intergovernmental Conference (IGC) and possibly a Convention composed of European and national parliamentarians, as well as representatives of EU governments and the Commission. However, the European Council may decide by a simple majority, after obtaining the consent of the European Parliament, that a Convention is unjustified by the extent of the proposed amendments. Either way, any amendment(s) would have to be ratified by all Member States before it can enter into force in time for the 2014 EP elections.

The proposal to bring forward the timing of European elections from June to May has two major advantages. First, it could increase turnout in a number of Northern Member States where EP elections in June collide with the start of summer holidays. Second, it could allow the newly elected Parliament to kick-off its activity before the summer break, which would enable it to organise itself more efficiently ahead of the election of the new Commission President in the fall. Then, the long-standing call to revamp the 1965 Protocol on Privileges and Immunities finds justification in the need to overcome previously thorny discrepancies between Member States in the legal position of their MEPs, and to allow the Parliament to use its powers in situations where national and EU law are in conflict on this matter. As for the suggestion to adopt a mathematical formula for the redistribution of EP seats, it could provide a more objective and less politically contested way to determine the total of MEPs per Member State. Ongoing demographic changes in Europe as well as the accession of new countries to the EU could

render this proposal increasingly imperative, albeit not necessarily easy to swallow by states that might have to cut back on their number of MEPs.

While none of the above-mentioned reforms falls short of controversy, the proposal to put 25 additional seats up for grabs by MEP candidates competing on an EU-wide list stands out as the major bone of contention. But what are its envisioned benefits and potential limitations? And how likely is its adoption?

An EU-wide list – potential benefits...

With respect to potential benefits, the introduction of a transnational list could personalise and Europeanise EP elections, invigorate the “strategic partnership” between the Parliament and Commission, and strengthen the autonomy of European political parties.

Personalisation and Europeanisation of EP elections

The prospect of a pan-EU constituency vote on semi-open lists could offer candidates incentives and opportunities to raise their specific profiles with electors in order to secure visibility and popular support across Member States. The personalisation of EP elections could produce more “colourful” and recognisable European political figures in a post-national political space. Moreover, the introduction of a transnational list could effectively fuel competition among the contenders and encourage them and their parties to campaign on issues of relevance to the whole European electorate. A meaningful EU-wide electoral contest fought on European rather than domestic concerns could render the “second-order” label previously coined for EP elections less appropriate.

Additionally, the personalisation and Europeanisation of EP elections could help to boost the interest of media and citizens in European political affairs. More relevant and competitive European elections might also persuade citizens to exercise their voting right, with obvious positive implications for the deplorable turnout witnessed so far in EP elections. Finally, the transnational list – likely to breed candidates for the top jobs in the EU – could attract political heavyweights to campaign for the European Parliament, and thus increase the quality of “political personnel” and strategic thinking at the highest political level in the EP.

“Strategic partnership” between EP and Commission

The political significance of European elections could be further enhanced if the group of 25 MEPs supplied the runner(s) for the position of President of the European Commission. The opportunity to replace the “secretive horse-trading” between EU heads of state or government with an indirect popular say over the choice of the next Commission President would not

only make the nomination process more transparent, it would also enhance the legitimacy and standing of the successful incumbent(s), while simultaneously strengthening the role of the Commission and the Parliament in the Union's institutional architecture.

Linking the (s)election of the Commission President to the vote on the transnational list and the outcome of EP elections more generally could reinforce the political ties between the Commission and the Parliament. Following the entry into force of the Lisbon Treaty one can already sense a rapprochement between the Barroso II Commission and a strengthened, more self-confident EP. The introduction of an EU-wide list including top candidates for the post of Commission President could fortify this “strategic partnership” and also work to the advantage of the “Brussels executive” by consolidating the political power base and popular legitimacy of the Commission, which has lost much of its strategic clout since the late 1990s.

More autonomous and interactive European political parties

Finally, “forcing” European parties to agree on candidates for the 25 extra seats and to coordinate support for them in different national settings could offer ample scope for inter- and intra-party interaction. Joint efforts to support candidates on the EU-wide list would require the elaboration of a genuine transnational campaign strategy and an agreement on a party manifesto going beyond the lowest common denominator. All this could substantially advance the autonomy of European political parties, which are still loose conglomerates of national parties dominated by party headquarters in national capitals. Finally, competition between European parties for the top-executive job(s) in Brussels could contribute towards the emergence of a transnational party system in the Parliament.³

...and some points of caution

Notwithstanding all the latent benefits of electing 25 additional MEPs in a single EU constituency, there are several aspects that could raise objections to the proposal or hinder its effectiveness.

European “beauty contests”

An increased personalisation of EP elections could encourage European parties to select candidates who “qualify” for the job primarily because they are well known to the European electorate. In that case, experience, competence, and political substance run the risk of becoming secondary issues. Instead, parties and voters would focus attention on the candidates’

3. See e.g. 2010 EUDO Report (PE 425.623) for the EP Committee on Constitutional Affairs: “How to create a transnational party system” by Luciano Bardi, Edoardo Bressanelli, Enrico Calossi, Wojciech Gagat, Peter Mair, and Eugenio Pizzimenti

popularity and campaigning style rather than on concrete policy issues, and evaluate top candidates on the basis of non-political personality traits instead of professional skills and performance. Despite the superficial and short-term appeal of such “beauty contests”, if EP elections failed to convey the meaningful programmatic choice voters face, the quality of European democracy could be at a loss.

Inflated and false expectations

Moreover, there is a risk that EU-wide election campaigns could become dominated by issues which attract the interest of the wider European public but are not in effect co-decided by the European Parliament. Election campaigns fought on “European issues” that fall outside the Parliament’s Treaty prerogatives would be as irrelevant for EU outputs as contending EP elections on national topics.⁴ Creating false impressions with respect to the EP’s actual influence could eventually backfire if the European Parliament proves incapable of fulfilling the expectations raised during election campaigns. Thus, voters’ awareness of the Parliament’s role in the highly complex system of EU policy-making could benefit more if candidates and parties tailored their campaign message first and foremost around European issues that clearly fall within the scope of the EP’s formal powers.

Perils of executive control

Furthermore, the added-value of potentially connecting the outcome of the transnational vote to the (s)election of the President of the Commission can be challenged on various grounds. First, increased political ties between the Parliament and the “Brussels executive” could weaken the EP’s scrutinising role *vis-à-vis* the Commission, if parliamentarians feel inclined to support and protect “their Commission President”. Second, the potential reinvigoration of the “strategic partnership” between the EP and Commission could jeopardise the independence of the latter and hamper its role as an honest broker and guardian of the Treaties – a role which is becoming ever more important in times of increased national focus and growing tensions between Member States. Finally, unless the President of the Commission is directly elected by European voters, it is not automatically the case that a President nominated by elected European parliamentarians would enjoy more trust and support than one chosen by the heads of states or governments in the European Council.

Ultimately, as all electoral reforms, the proposal in question involves trade-offs between envisioned and less desirable outcomes. However, the possibility of fostering transnationalisation in the EU and increasing the popular appeal and political significance of EP elections are benefits that clearly warrant taking the potential risks associated with the adoption of this initiative.

4. E.g. Peter Mair and Jacques Thomassen (eds.), “Political Representation and European Union Governance”, London and New York, Routledge, 2011

Opposition from governments and national political elites

Yet, despite strong arguments in favour of this reform, one cannot assume that national political elites will support the adoption of a semi-open, transnational list. Member States have already rejected similar proposals in the past and they could do so again for a number of reasons.

First, EU governments might fear that the election of 25 additional MEPs by a single EU constituency could further shift the balance of power from national capitals to Brussels and Strasbourg. It seems particularly improbable that the heads of state or government will be ready to renounce their remaining privileges concerning the (s)election of the President of the European Commission. Likewise, national politicians will not be eager to accept reforms that could strengthen the overall position of and structural ties between the EP and the Commission in the institutional power game. On the contrary, Member States have been pushing in recent times for a more “intergovernmental Europe” through an increased role of the European Council.

Second, national parties might resist plans for a semi-open preferential voting system given that this would effectively subtract the control they have enjoyed so far over the designation of MEP candidates, in order to grant European parties a more autonomous say in the process. Moreover, domestic parties could block any attempt to organise a coordinated, let alone a single pan-EU election campaign by refusing a more direct influence of the European level in the selection of campaign issues and tools.

Third, national political elites opposed to a single EU-constituency vote will probably build their counter-argument around the fact that such an innovation will require an EU Treaty amendment, especially if the application of the ordinary treaty revision procedure would entail not only an Intergovernmental Conference but also a Convention. They will most likely claim that this formula would open the Pandora’s Box to yet another lengthy and complex treaty reform exercise, which most governments and national parliaments are (still) very keen to avoid.

Hence, in order to increase the chances of translating the idea of an EU-wide list into practice, the Parliament should indicate early on that it would be ready not to ask for a Convention, if Member States’ governments would in return be willing to revise the EU Treaty in time for the next EP elections in 2014. This trade-off would be worth it, because changing the rules of the electoral game could mark a qualitative leap towards increasing the popular appeal of the Parliament, the European character of EP elections, and the role of political parties at the EU level, thereby adding another important “brick” to the democratic construction of the Union.

The role of the Trio Presidency

After the EP has brought forward its proposals, the ball is in the court of the Member States. Thus, the Trio Presidency including Poland, Denmark, and Cyprus has an important role to play

in the framework of the ordinary revision procedure. To initiate the procedure, the Council has to submit the EP’s proposed amendments to the European Council, which can decide to examine the revisions put forward. Ultimately, any Treaty amendments have to be settled in the framework of an IGC – independent of whether a Convention has been convened or not. Here again, the rotating presidency can be pivotal, as the IGC has to be convened by the President of the Council. The rotating presidency will also have to consult with the EP in order to obtain the parliament’s consent not to convene a Convention.

In other words, the Trio Presidencies has a special responsibility, if this reform proposal is to come into force in time for the next EP elections. The Treaty amendment will have to be initiated and decided during the Trio Presidency 2011-2012, so that the new provisions can be ratified and enter into force before 2014. Moreover, the Trio Presidency should put electoral reform on the agenda as early as possible, so that European and national parties can prepare for the implementation of the various innovations. In particular, an early start could buy national party elites some time to agree on the potential candidates for the transnational list and reflect on a division of labour between the national and European levels when drafting their strategies and preparing their campaigns. Finally, the Trio Presidency should help raise the salience of the EP electoral reform issue and awareness about its likely domestic and European implications by advocating to all EU governments its adoption. This could facilitate agreement on the proposals and possibly ease the implementation process.