

**Parliament of Romania  
Chamber of Deputies  
Commission on European Affairs**

**Bucharest, 8 March 2016**

**Point of view  
regarding  
the European Parliament resolution of 11 November 2015 on the reform of the  
electoral law of the European Union (2015/2035(INL))  
EP 2015/2035**

1. The Committee on European Affairs takes note of the adoption, by the European Parliament, on 11 November 2015, of the reform of the electoral law of the European Union ((2015/2035(INL))), sent to the Chamber of Deputies on 10 December 2015. The annex to the resolution contains a decision proposal on the modification of the Act concerning the election of the members of the European Parliament by direct universal suffrage (the Act on the election of the members of the European Parliament). The promotion of this decision proposal is legally based on Art. 223 of the Treaty on the Functioning of the European Union (TFEU).
2. The Committee on European Affairs takes note of the objectives which are aimed at by the reforming action of the electoral procedure of the European Parliament (mentioned at point B of the resolution preamble), namely that it "should aim to enhance the democratic and transnational dimension of the European elections and the democratic legitimacy of the Union decision-making process, reinforce the concept of the citizenship of the Union, improve the functioning of the European Parliament and the governance of the Union, make the European Parliament more legitimate, strengthen the principles of electoral equality and equal opportunities, enhance the effectiveness of the system for conducting European elections and bring Members of the European Parliament closer to their voters, in particular the youngest them." Equally, the Committee on European Affairs takes note of the support (mentioned at point C of the preamble to the resolution) according to which "the reform of the electoral procedure must respect the principles of subsidiarity and proportionality and should not seek to impose uniformity for its own sake."
3. Taking also into consideration that "the functioning of the Union shall be founded on representative democracy" (according to Art. 10, (1) of the Treaty on the European Union (TEU) and that "national parliaments contribute *actively* to the good functioning of the Union (Art. 12 of the TEU) and taking note of the previously mentioned objectives aimed at by the current resolution of the European Parliament, the Committee on European Affairs considers that, in such a domain of action, national parliaments should *actively* and efficiently involve, with the observance of the stipulations of the treaties and their annexes.

## **Procedural aspects**

4. The Committee on European Affairs considers that the decision proposal should be subject to the observance of the subsidiarity principle, following the procedure stipulated at Art. 6 of Protocol 2 annexed to the treaties, on applying the subsidiarity and proportionality principles.
5. Consequently, taking into consideration that according to Article 223 (1) of the TFEU, the European Parliament is the initiator of the “draft” legislative resolution, it is the responsibility of this European institution to send the proposal accompanied by a referral letter aiming at initiating the procedure at the level of national parliaments (or their Chambers) as per Art. 4 (2) of Protocol 2 to the treaties.
6. It is to be underlined that the Committee on European Affairs took note of the letter sent by the European Parliament to the Chamber of Deputies, on 10 December 2015, where no reference has been made however, as to the initiation of the control on the observance of the subsidiarity principle within eight weeks.

In addition, the Committee on European Affairs takes also note that, according to the IPEX site, similar letters have been addressed to all the national parliaments (or their Chambers), but at different dates, not simultaneously, according to the common practice followed by the European Commission.

Also the Committee on European Affairs takes note of the long period of time, of about one month, between the adoption date of the draft proposal and its transmission to the national parliaments.

7. Therefore, the specific character of all these circumstances lead to important confusions regarding the procedure to be followed and are detrimental to the prerogatives of national parliaments.
8. Taking into consideration the legal character of the proposal of the European Parliament and the non-exclusive character of the European Union’s competence in the domain targeted by the draft proposal, the Committee on European Affairs considers that the “draft proposal” should be subject to the control of the observance of the subsidiarity principle.
9. To conclude, the fact that the national parliaments have not been informed on the initiation of this control, what is detrimental to their prerogatives, represents an infringement of the fundamental procedure regulations and of the Union treaties.
10. The above-mentioned considerations should be completed with the remark that the proposal should have also observed the motivation obligation, thus established by Art. 5, Protocol 2. This motivation should explain more adequately the relation between the objectives which are aimed at by the decision proposal, mentioned at point B of the preamble to the resolution and their achievement methods, aiming at strengthening the harmonization, at the level of the European Union, of the conditions in which electoral rights are exercised.

## Basic aspects

11. The Committee on European Affairs acknowledges the transnational effects of the targeted intervention, in accordance with the principle of the citizens' direct representation, at the level of the Union, in the European Parliament, according to Art. 10, (2) of the TEU, underlining however that it should be adequately taken into consideration the electoral particular aspects in the Member States.
12. The Committee on European Affairs is strongly convinced that the strengthening of the relations between THE European citizens and the European political parties would be beneficial, further to completing and improving the legal framework concerning the election of the members of the European Parliament, a process which was started by the resolution adopted on 11 November 2015.
13. The Committee on European Affairs takes note of the recommendation made to the Member States to examine ways for harmonizing the age of minimum 16 for the electors, so that to increase the electoral equality within the Union's citizens but draws the attention that Art. 136 of the Constitution of Romania stipulates the age of 18 for exercising the right to vote, both for the national elections and for the European Parliament. Consequently, decreasing the age of the citizens' right to vote represents a domestic policy aspect which is of the exclusive competence of the Member States.
14. Reaching a suitable level of political representation, removing the administrative obstacles presented in the report adopted on 2 October 2015 within the Committee for Constitutional Affairs (A8-0286/2015) whose Rapporteurs were Mrs. Danuta Maria HÜBNER and Mr. Jo Leinen, claim that the proposed regulations should approach only the necessary aspects, which should be scarcely disputed and also as non-equivocal as possible.

### **In the opinion of the Committee on European Affairs, at least the following stipulations need to be immediately clarified :**

15. Concerning Art. 3c) ("Political parties participating in elections to the European Parliament shall observe democratic procedures and transparency in selecting their candidates for those elections"), it is obvious that in their activity, political parties should reflect the fundamental principles of democracy in order to permit the citizens to take decisions in conditions of predictability. However, an increased interference into the free organizing methods of political parties would undermine specifically their political efficiency. Consequently, the Committee on European Affairs considers that the legal force of the article should be decreased to the level of recommendation, at least as regards the democratic procedures, all the more as the administrative meaning of the phrase is interpretable.
16. Concerning Art. 3d ("List of candidates for election to the European Parliament shall ensure gender equality"), this is generally welcomed, if it is avoided its strict mathematic interpretation which is debatable (50% - 50% of the list places), what represents an interpretation which is not desired. The Committee on European Affairs draws the attention that the gender perspective also includes the women's increased participation in vote, a situation which could be either left to the choice of political parties or it could acquire the form of a recommendation in the discussed regulation act.

17. Concerning Art. 9a (“All Union citizens, including those living or working in a third country, shall have the right to vote in elections to the European Parliament. Member States shall take the necessary measures to ensure the exercise of this right”), the Committee on European Affairs considers that *to guarantee* the exercise of this vote can generate in certain situations excessive resources as compared to the expected results. This is the reason why it proposes that the obligation to guarantee the exercise of the right to elect should be subject to the condition of being equivalent to the constitutional and legal stipulations in the Member States.
18. Referring to Art. 14 (“Measures to implement this Act shall be proposed by the European Parliament, acting by a majority of its component members, and adopted by the Council, acting by a qualified majority, after consulting the Commission and obtaining the consent of the European Parliament”), the Committee on European Affairs notices that, according to the current version of Art. 14 of the Act on the election of the members of the European Parliament, the Council takes decisions on a unanimous basis, so that a modification of the procedural regulations must have a solid justification, also taking into consideration the symmetry of the unanimity regulation within Article 223, (1) of the second paragraph of TFEU.
19. The Committee on European Affairs is reticent about the fact that the European Parliament was granted the prerogative to establish the electoral time periods.

President,

Ana BIRCHALL