



Statement of the Grand Committee - extract from the minutes 11 March 2016

5 § Government report on the European Parliament's resolution on the EU election statute

Government report U 4/2016

Report of the Constitutional Law Committee PeVL 7/2016

The Grand Committee adopted the following **Position of Parliament**:

Concurring with the report of the Constitutional Law Committee, the Grand Committee agrees with the Government's view that the objectives of the proposal – enhancing the legitimacy of EU decisions, broadening participation rights, making the election process more efficient and increasing voter turnout – deserve support. Like the Constitutional Law Committee, the Grand Committee is not convinced that all of the proposals will lead to the objective.

In particular, the Grand Committee believes that the effect of the practice of nominating so-called *Spitzenkandidaten* on the EU's democratic legitimacy warrants further study. On the basis of current information, the practice may equally well be deemed to increase as to lessen democratic legitimacy.

The Grand Committee observes that the proposal's article 14, on implementing measures related to the election statute, is incompatible with the treaty. Art. 291, paras 1 and 2 make it clear that the European Parliament has no role in implementing measures. To make an exception for the election statute is neither possible nor justified.

The Grand Committee agrees with the Government that is essential to amend the articles mentioned in the Government's report. In concurrence with the Constitutional Law Committee, the Grand Committee considers that the election statute should refrain from regulating in detail issues that are unrelated to the statute's objective; recommendations should be considered instead of legal norms.

The Position of Parliament was adopted by 19 votes to 4, 1 abstention. The minority would have deleted the second paragraph on *Spitzenkandidaten*.

In fidem,

Peter Saramo
Clerk

14 March 2016

Statement of the Constitutional Law Committee PeVL 7/2016 on the European Parliament's proposal for a European election statute*To the Grand Committee***PRELIMINARY REMARKS***[Omitted from the translation]***THE GOVERNMENT'S REPORT**

The European Parliament's proposal for a new election statute is attached to the EP's resolution of November 2015 (2015/2035(INL)). The proposal has been summarized in the Government's report.

The Government's assessment

The Government considers that the EP's proposals are broadly acceptable. They may be deemed to make European elections technically more efficient and more interesting to voters.

The Government considers that the proposal's article 2 a is unclear, and seems to imply a pan-European list of candidates. This is not in the interest of small member states, as the seats provided for European candidates would cut the number of seats available for national representatives. Article 2 a should be deleted.

The Government does not support the proposal that the European Parliament sets the date of elections after hearing the Council, because EP elections are held in the member states.

The Government is favourable to a common date for confirming the list of candidates, but considers the proposed time frame (12 weeks before the election) problematic. The proposal would lead to over-long campaigns and would in practice inflate the campaign costs of candidates and parties.

The Government has reservations about the usefulness of announcing official estimated results simultaneously in all member states. The Government has doubts about the practicability of banning the gathering and publishing of exit polls. Opinion surveys are covered by freedom of expression.

The Government calls for closer examination of the proposal that ballot documents should contain, equally visibly, the names and logos of both the national and the European political parties. Finnish ballot forms contain no mention of parties, i.e., they meet the equal visibility standard. It should be possible to add the names of European parties to the official list of candidates in addition to the names of national parties, although this calls for an amendment of the Elections Act¹.

The Government considers the proposal concerning gender equality in lists of candidates (art. 3 d) to be unclearly drafted. It is not clear what the article requires. In Finland, most parties' European candidates lists have long been half male, half female.

¹ *Translator's clarification:* Finnish ballot papers are a folded A5 paper that contains a large circle, in which voters enter the number of their preferred candidate, but are otherwise completely blank. In every voting booth (and around the polling station) voters can consult the official list of candidates, grouped by party.

The Government considers that, although nominating *Spitzenkandidaten* (art. 3 f) has become the practice, thought should be given to whether a statute on EP elections is the right context to regulate the nomination of the Commission's president. Thought should be given to whether the current procedure should be formalised in a Council decision that in future can be revised only on the EP's initiative and by a unanimous Council.

The Government has grave reservations about the EP's proposal (art. 14) to go from unanimity to qualified majority voting when approving measures to implement the election statute. Unanimity should be retained or, alternately, the statute should specify for each article, what implementing measures may be undertaken in future. The best option would be to change nothing.

REASONING OF THE CONSTITUTIONAL LAW COMMITTEE

The proposal and the Committee's approach

Article 39 of the European Charter of Fundamental Rights guarantees to every EU citizen the right to vote in European elections in the state in which he/she resides.

Article 223 paragraph 1 TFEU governs the adoption of a European election statute. [*Summary of the article omitted from the translation.*]

Section 14 para 2 of the Constitution states that every Finnish citizen and every resident other EU citizen who has reached the age of eighteen is entitled to vote in EP elections in a procedure defined by Act of Parliament. Elections to the European Parliament are regulated in the Elections Act.

The proposal is to renew the EU election statute that was approved in 1976 and amended in 2002 (76/787/ECSC, EEC, Euratom; see government bill HE 27/2003 and Constitution Committee Report PeVM 2/2003). The objectives include to enhance the democratic and supranational dimension of European elections, the legitimacy of Union decisions and to improve the efficiency of European elections, thereby increasing voter participation.

Art. 2a of the proposal would create a unitary constituency, in which each political "family's" candidate to head the Commission would top the list of candidates. According to art. 3, member states with more than 26 seats in the EP should introduce a 3 or 5 percent threshold for election.

New articles 3a – 3f are proposed added to the election statute. Candidates are to be nominated 12 weeks before the election (art. 3a). National and European party names and logos are to be marked on ballot papers with equal visibility (art. 3e). European-level parties are to name their candidates for president of the Commission 12 weeks before the election (art. 3f)

Mentions of the options of e-voting and internet voting (art. 4a) and postal voting (art. 4b) are proposed to be added to the election statute. According to the proposed art. 11, the EP decides, after hearing the Council, the time of voting at least one year before the end of each five-year parliament.

Assessment of the Government position

The Government report describes the proposals as "broadly acceptable", and goes on to identify a number of articles that need to be reconsidered or amended. Among these are at least the proposals concerning a unitary European list of candidates (art. 2a), the timeframe for approving lists of candidates (art 3a), party names and logos on ballot documents (art. 3e), *Spitzenkandidaten* (art. 3f), publishing of preliminary returns (art. 10), deciding the date of elections (art. 11), and qualified majority voting about implementing measures (art. 14).

The Constitutional Law Committee observes that the proposed amendment of the election statute contains only few proposals that the government actually supports. The Committee shares this assessment. The Constitutional Law Committee observes that the objectives of the proposal – enhancing the legitimacy of EU decisions, broadening participation rights, making the election process more efficient and increasing voter turnout – no doubt deserve support. The Committee is unconvinced, however, that all of the proposals would contribute to achieving the objective.

The proposal contains details that are unwelcome in terms of the coherence of the Finnish election system. If implemented, they would weaken the cohesion of the election system – which must affect any assessment of the proposal. The Committee considers that the election statute should refrain from regulating in detail issues that are unrelated to the statute's objective; recommendations should be considered instead of legal norms.

STATEMENT OF THE CONSTITUTIONAL LAW COMMITTEE

The Constitutional Law Committee submits,

that it agrees with the Government report about the need to amend the articles mentioned therein. The Committee emphasises its views, above, on the acceptability of the proposal as such.

Helsinki 9 March 2016

[List of members attending omitted. The report was unanimous.]