

EUROPEAN ELECTIONS BRIEFING

6

September 1978

The Italian draft law for the holding of the first European Elections was published during the Summer. Arrangements for electing the European Parliament next year are therefore nearing completion in all nine Community countries.

In the United Kingdom, two important documents have recently been published.

First, the Government has issued draft regulations for the conduct of the election in England, Scotland and Wales (separate rules for Northern Ireland will be published later).

Secondly, the House of Lords Select Committee on the European Communities has produced its report on "Relations between the United Kingdom Parliament and the European Parliament after Direct Elections".

The Draft Regulations

(Cmnd. 7323, HMSO 42pp. 90p.)

The most important items covered in the draft regulations for England, Scotland and Wales are:—

- 1) *Polling day* will be Thursday 7 June 1979.
- 2) The *deposit* for candidates in the European Elections will be £600 (for House of Commons elections it is £150). The deposit will be forfeited if a candidate does not poll one-eighth of the votes cast.
- 3) The number of electors' *signatures* required on a candidate's nomination form will be 30 (for House of Commons elections it is 10).
- 4) The *count* will be conducted in two stages.
 - (a) After the close of the polling station at 10 p.m. on Thursday 7 June, the ballot boxes will be opened and the ballot paper "accounts" will be *verified* (i.e. the number of ballot papers in the boxes and those unused or spoiled will be checked against the number of ballot papers issued). All the ballot papers will then be re-sealed in containers.
 - (b) After the close of the last polling station in the Community (probably at 9 p.m. on Sunday 10 June) the boxes can be opened again and the *count proper* begun.

These draft regulations will, in due course, be put to Parliament at Westminster, together with the Orders determining the constituency boundaries (the Boundary Commissions are currently preparing their final recommendations).

Meanwhile the Government has invited comments on the drafts. These must be sent to, for England and Wales, the Home Office; and for Scotland to the Scottish Home and Health Department.

The Lords Report

(HMSO, Vol. 1 31pp. 80p.)

The House of Lords Select Committee makes a number of recommendations on links between Westminster and the elected European Parliament. The most important are:—

A. That a *European Grand Committee* be established, consisting of

- (i) all members of the EEC Scrutiny Committees of the

House of Commons and the House of Lords, and their sub-committees.

- (ii) the 81 directly-elected UK Members of the European Parliament
- (iii) "such other members of either House of Parliament as that House might appoint".

B. UK Members of the European Parliament (MEPs) should be invited to attend *Scrutiny Committee* meetings, as non-voting members.

C. The Lords Scrutiny Committee should invite *any of the 410 MEPs* to give evidence when appropriate.

D. Members of the Scrutiny Committee should likewise be prepared to give evidence to *European Parliament Committees*.

E. There should be a *European Parliament Office* near Westminster.

F. There should be a secretariat providing links between Westminster and the European Parliament (e.g. via temporary secondment).

G. MEPs should have *access to Westminster* and its amenities (e.g. libraries, dining room, bars, etc.).

The report also suggests that the political parties will also give high priority to establishing links, both at national and constituency level, between MEPs and other sections of their respective parties.

The Italian Bill



Italy will be divided into 9 constituencies (see map), with 81 seats divided between them on the basis of population.

The draft regulations for European Elections in the UK

As the Government states in the introduction to the draft regulations, it is intended that European Elections "should be based as far as possible on normal Parliamentary electoral law and practice". The document consists of:

a) A short section primarily concerned with definitions, (e.g. "Assembly" refers to the "Assembly of the European Communities" — i.e. the European Parliament).

b) In Schedule 1, a list of those sections which apply, together with any amendments, of the Representation of the People Acts of 1949 and 1969, the Post Office Act of 1969 and the Local Government Act of 1972.

c) In Schedule 2, a list of those sections which apply, together with amendments, to the Regulations of 1974 and 1975, and the Control of Advertisement Acts applying to England and Wales (1969) and Scotland (1961).

d) In Schedule 3, amendments to the standard forms (e.g. for proxy voting) prescribed in the 1974 and 1975 regulations.

It is also made clear in the introduction that the draft rules are only "a basis for consultation with the political parties, the local authority associations and other interested organisations and individuals". Most of the items, however, are likely to be uncontroversial.

There are a number of areas in which European Elections raise special considerations:

i) **polling districts and polling stations**, "in the absence of special circumstances", will be the same as for Westminster elections.

ii) The rules on obtaining **postal or proxy votes** will be the same as for Westminster elections, but Peers are included since they have the right to vote in European Elections. Anyone applying for a postal or proxy vote for Westminster or local government elections before 20 May 1979 will be deemed to have applied for European Elections as well.

iii) A **declaration of secrecy** applies not only to the count proper, but to the verification (see ix below) as well. The draft regulations provide that, at the verification, no-one shall "express to any person an opinion based on information obtained at that verification or count as to the likely outcome of that count". This should prevent "leaks" of the results on Thursday 7 June 1979.

iv) **Expenses allowances** of candidates and agents (see below) are to be roughly six times the amounts prescribed for Westminster elections. (Euro-constituencies are about eight times larger, but there should be economies of scale).

v) Candidates will be entitled to one **free post** to each elector in their Euro-constituencies (as at Westminster elections).

vi) Election timetable

Publication of notice of election	Not later than 25 days before polling
Delivery or withdrawal of nomination papers, and lodging of deposits	Any day after publication of the notice of election and not later than 19 days before polling: 10 a.m. — 3 p.m. weekdays 10 a.m. — 12 noon Saturdays
Polling day	Between 7 a.m. and 10 p.m. on Thursday 7 June 1979.

vii) **Nomination papers** must be signed by a proposer and seconder and 28 other electors from the appropriate Euro-constituency.

viii) The **deposit** for each candidate is set at £600, to be lodged with the returning officer within the same time limits as the nomination papers. (N.B. The deposit in the Republic of Ireland is to be £1,000).

ix) "As soon as practicable after the close of the poll" the ballot papers will be "verified". This will probably be carried out at Westminster constituency level, in the same way as at national elections. All the ballot boxes (including those containing the postal votes) will be opened and the number of ballot papers counted, *face down*. The total (including the unused or spoilt ballot papers in the returning officer's possession) will be checked against the record of ballot papers issued.

On completion of the verification, the ballot papers will be re-sealed in containers, which will be labelled with the area* from which the particular ballot papers come.

x) The **count** will take place after "the close of polling in the Member State whose elections are the last to vote . . ." It will probably take place at a single location in each Euro-constituency. The returning officer will re-open the ballot boxes and mix the ballot papers from different areas together.

xi) The **result** of the election in each Euro-constituency will be declared by a single returning officer and notified to the Home Secretary or the Secretary of State for Scotland.

xiii) **Restrictions on broadcasting** which normally apply when an election is "pending" (e.g. in the case of Westminster elections, when the dissolution of Parliament is announced), will apply as from five weeks before polling day.

All the normal rules at national elec-

* Probably the Westminster constituency or, in certain circumstances, the local authority district

tions — for example, on the use of premises for meetings, imprints on posters and election literature, bribery, treating, etc — will also apply at European Elections.

Election expenses

Although there is no limit on the sums which *political parties as a whole* can spend at elections, there are very tight rules on the amounts which can be spent in any single constituency on behalf of a *particular candidate*.

1. Only the candidate, his election agent or persons authorised in writing by the election agent (who thereby themselves become, in law, agents of the candidate) are entitled to incur expenses per person with a view to getting the candidate elected. To do so without authorisation is a "corrupt practice".* (An individual is, however, entitled to incur expenses up to a certain sum — in the case of European Elections, £3 — provided it is not in pursuance of a plan concerted with others).

2. There is a maximum limit on the amount that can be spent for such a purpose, whether before, during or after elections: to spend more is an "illegal practice".*

3. For the purpose of these restrictions, the election commences *as soon as the candidate begins to take measures to promote his election* (e.g. by announcing his candidature). Polling day is already known; and European Elections can therefore be said to have started as soon as the constituency boundaries have been approved by Westminster.

The draft regulations (see iv above) limit the election expenses for any one candidate in a Euro-constituency to £5,000 *plus* an additional 2 p. for every registered elector. Thus, in a Euro-constituency of 500,000 electors, each candidate would be able to spend £15,000.



* A "corrupt practice" is one where an intention to corrupt has been proven. An illegal practice is illegal whatever the intention.

The Report of the House of Lords Select Committee

One important consequence of holding direct elections to the European Parliament is that the Members will no longer, in general, have a "dual mandate" — that is, also be Members of their national parliaments.

Exactly how many of the 410 elected MEPs will have a dual mandate is still a matter of speculation. There are likely to be major variations between the different countries.

For example, Annex D of the House of Lords report shows that some national parliaments (and their individual chambers) meet a great deal more frequently than others. The House of Commons has three times as many hours of meetings in the year than the French *Assemblée*; and five times as many as the German *Bundestag*. Even the House of Lords puts in more hours than either.

Secondly, electoral systems influence the practicability of a dual mandate. In general, it will be easier to work in two parliaments at once if one has no constituency to look after — either national or European — than if one does.

It is possible, therefore, that a high proportion of the MEPs from some countries will hold a dual mandate. In the case of Britain, however, the difficulties are at their greatest: in particular, for a Member of the House of Commons.

It is, of course, possible for Members of the House of Lords to be elected to the European Parliament. These will automatically hold the dual mandate.

The need for links

The House of Lords Committee noted that the ending of the obligatory dual mandate will create certain problems. For all its disadvantages, its existence ensures direct links between the European and national Parliaments, and keeps the MEPs in the mainstream of national political life.

Some of those giving evidence to the Committee believed that to devise links between the two Parliaments would be a "pointless exercise". The bulk of evidence, however, — and the Committee itself — believe that "everything possible should be done to prevent conflict or rivalry from developing..." Though "nothing over-elaborate or inflexible should be attempted... it would be helpful to have realistic and positive suggestions ready for when the directly elected MEPs have been returned".

A European Grand Committee

The "Grand Committee" solution was favoured by the bulk of evidence to the Select Committee. The report recommends that it should operate as follows:

a) The Grand Committee should be able to **debate Community affairs** in general; or particular issues, usually on the basis of a report from the Commons or Lords

Scrutiny Committees, or a European Parliament Committee. It would also discuss relevant UK Government publications. Community Commissioners might attend to give evidence; and a UK Minister would normally attend discussions, and state the Government's views.

b) The Grand Committee would *not* take **formal votes**.

c) **All 81 MEPs, and all members of the Commons and Lords Scrutiny Committees** would sit on the Grand Committee. It would be possible for either Commons or Lords to appoint additional members.

d) The Grand Committee would meet regularly **three times a year**, and hold additional meetings when they were needed. The times and agendas would be regulated by the Grand Committee itself "to suit the convenience of members of both Parliaments".

e) The **chair** would be taken by either Scrutiny Committee Chairman; or, "if appropriate, by the Chairman or rapporteur of a specialist Committee of the European Parliament".

f) The calling of **additional meetings**, etc. would be the responsibility of a small "bureau" of the Grand Committee, consisting of the Scrutiny Committee Chairmen and one or more MEPs.

g) The Grand Committee would normally publish a **verbatim report** (like Hansard); and such other papers as it thought fit.

The existence of such a Grand Committee, the report states, would be of value to both the European Parliament and Westminster. It would "strengthen MEPs' appreciation of the British factors in European policies". In addition, "it would make the Westminster parliament more aware of the EEC point of view when it considered European affairs". Since it would not have the power to take binding votes, it would challenge the constitutional power of neither Commons, Lords nor European Parliament.

'Swap' arrangements

The report also envisages contacts between MPs and MEPs through participation in each others' meetings, and through the exchange of documents.

a) *UK MEPs might attend meetings of the Lords or Commons Scrutiny Committees. They would be able to speak but not vote (following the precedent of the Joint Committee on Indian Constitutional reform 1932-34).*

b) *The Lords Scrutiny Committee might invite any of the 410 MEPs, particularly rapporteurs, to give evidence.*

c) *Members of the Lords or Commons Scrutiny Committees might, in turn, be invited to take part in European Parliament Committee meetings.*

d) *UK MEPs should receive any Scrutiny Committee or other UK Parliamentary papers that might be of use to them. Arrangements should also be made*

for the regular exchange of Westminster and European Parliamentary documents.

Offices

The report recommends that the shortage of space at the Palace of Westminster should be overcome by establishing a European Parliament London Office "as close as possible to the Houses of Parliament". It would include offices for MEPs, and meeting rooms. Accommodation would be required for "the European Parliamentary library, research staff and papers". There would also be "social facilities similar to those provided within the Palace of Westminster".

Although the provision of such an office is primarily a matter for the European Parliament, the report urges that it be taken into account in planning of "future provision for the members of the two Houses of Parliament at Westminster".

Staff

Most of the work of servicing the UK delegation to the European Parliament at present undertaken by staff at Westminster (e.g. distributing documents, travel, etc.) would be taken over by European Parliament staff after direct elections. But the report advocates that there should still be a "modest secretariat" charged with providing links between Westminster and the European Parliament. This might be done by seconding staff from Westminster to the European Parliament. Or they might be a "small joint secretariat".

Access to Westminster

In the House of Lords, the elected MEPs should be given "the right of sitting below the Bar in the seats reserved for distinguished visitors, and when necessary in the gallery of the House now reserved for members of the House of Commons". They should also be able to use the "libraries, reading rooms, dining rooms, bars and other facilities" of the House of Lords.

The party links

The report points out that one of the most effective links between the MEPs and national political life is likely to be provided within the political parties to which they belong.

i) *At Euro-constituency level, parties will probably give "high priority" to forming a working relationship between the MEPs and the MPs of the same party where seats are within that constituency.*

ii) *MEPs are also likely to participate, to some extent, in the work of the parties' specialist parliamentary committees at Westminster.*

iii) *Parties are also "likely to find it worthwhile to provide a role for MEPs in their national and regional machinery for the formulation of policy".*

Election Acts in other countries

Apart from the United Kingdom, four Community countries have so far passed the necessary Acts to enable European Elections to take place. These are France, Ireland, Germany and Denmark.

France

The French Law No. 770729 of 7 July 1977 is the shortest of all European Election Acts passed so far. The essentials are:

- 1. Franchise.** All French citizens throughout the world will be entitled to vote.
- 2. Constituencies.** "The territory of the Republic" (including all overseas departments and territories) will form a single constituency.
- 3. Candidates.** Each party fighting the election will nominate a list of 81 candidates.
- 4. Voting.** Electors will vote for one list as a whole, with *no* preferential voting for individual candidates.
- 5. Counting.** Seats will be allocated between the parties in proportion to votes (d'Hondt method). They will be allocated to candidates in the order of precedence on each list.
- 6. "5% hurdle".** Lists which do not secure at least five per cent of the votes cast will be discounted for the purpose of allocating seats.
- 7. Vacancies.** If a seat falls vacant, the next name down on the appropriate party list is chosen.

The Law also contains specific rules on how the campaign is to be conducted.

- a) The election campaign will open a fortnight before polling day.*
- b) Only the French political parties and candidates on the list will be allowed to campaign.*
- c) At the start of the campaign, a committee will be set up in each department or overseas territory, responsible for "all election campaign material". The costs will be met by the State.*
- d) Lists of candidates receiving more than 5 per cent of the votes will have their expenditure on posters and leaflets, etc. reimbursed by the State, up to a certain level.*
- e) There will be "party political broadcasts", paid for by the State.*

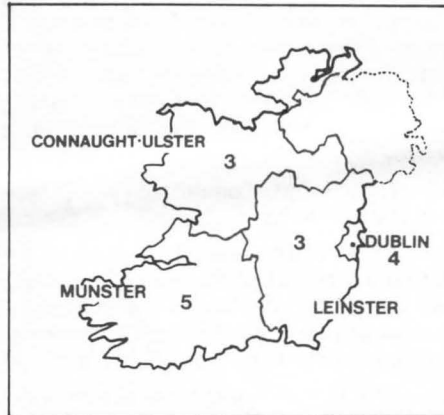
France is likely to vote on Sunday 10 June.

Ireland

The Statute providing for European Elections in Ireland was passed on 8 December 1977.

- 1. Franchise.** All Irish residents and *all citizens of other Community countries resident in Ireland*, can register to vote.
- 2. Constituencies.** Ireland will be divided into four multi-member constituencies (see map).
- 3. Voting.** The system of election will

be Single Transferable Vote (i.e. electors number the candidates "1, 2, 3 . . . etc").



- 4. Counting.** Seats are allocated to the candidates in each constituency according to these voters' preferences.
- 5. Deposit.** The candidates' deposit will be £1,000 each.
- 6. Vacancies.** If a seat falls vacant, there will *not* be a by-election. Instead, the Irish Parliament will appoint a new MEP, (normally a candidate nominated by the party holding the seat).

Polling day will be, as in the UK, Thursday 7 June.

Denmark

The Law providing for European Elections in Denmark was passed by the *Folketing* (Danish Parliament) on 2 December 1977.

- 1. Franchise.** All Danish citizens resident either in Denmark, *or in other Community countries* will be able to vote. Voters living outside Denmark will be on the electoral register for Copenhagen.
- 2. Constituencies.** Denmark itself will be one, 15-member constituency. Greenland will form a separate, single-member constituency.
- 3. Candidates.** Only registered parties will be able to field candidates for the Danish seats. This means only:—
 - a) parties currently represented in the *Folketing*; and
 - b) parties supported by the signatures of at least 65,000 electors.
- 4. Party lists.** Registered parties will nominate lists of up to 20 candidates for the seats in Denmark. At the nomination, parties can give notice that they have formed an election alliance.
- 5. Voting.** Electors vote for party lists as a whole; but can indicate a preference for one of the candidates on the list chosen.
- 6. Counting.** The 15 seats are first allocated to the different parties (election alliances count as a single party) proportionally (d'Hondt method). The seats for each party are then allocated among the candidates on the list on the basis of the preferences. Where a preference is not expressed, the vote is allocated on the

basis of the order of candidates on the list.

- 7. Greenland.** Greenland will be a single-member seat, with election by simple majority ("first-past-the-post"). Nomination papers must be signed by at least 100 electors.

Denmark will vote on Thursday 7 June.

Germany

The German European Electoral Law was adopted on 16 June 1978. Its main provisions are:

- 1. Franchise.** All Germans resident in Germany, *or who have been resident for at least three months in any other Community country*, will be entitled to vote.
- 2. Constituencies.** For the purpose of calculating the result, the Federal Republic will be a single 78-Member constituency, with 3 Members nominated from Berlin (see below).
- 3. Candidates.** The elections will be based on party lists:
 - a) A party can present a single list of candidates for the whole of Germany; or can present separate lists for each of the *Länder* (States).
 - b) The candidates on each list will appear in "a clear sequence"; and a *substitute candidate may be listed beside each candidate.*
 - c) Candidates can stand, as principals, or substitutes, in more than one *Land*.
- 4. Voting.** Each elector votes for a single part list, with *no* preferential voting for individual candidates.
- 5. Counting.** All the votes for the national list, or the separate *Land* lists, of each party are added together. *A party can, however, decide to have one or more Land lists treated as a separate party.* Seats are then allocated to each party proportionally (d'Hondt method). Finally, the seats allocated to a party which has presented *Land* lists are distributed among the different *Länder*, again proportionally. Candidates are elected in the order in which they appear on the list. If a candidate is elected twice (for more than one *Land*) he is deemed elected in the *Land* where he appears highest on his party list.
- 6. "5% hurdle".** Only lists which secure at least 5 per cent of the relevant votes are taken into account.
- 7. Vacancies.** Where a vacancy occurs, the *substitute* takes over; if there is no substitute, the next name down on the relevant list.
- 8. Election expenses.** Parties getting at least 0.5% of the votes will have their election expenses paid for by the State at the rate of DM 3.5 per voter.
- 9. Berlin.** The three Berlin Members will be nominated by the Berlin Chamber of Deputies, on the basis of the balance of parties in that Chamber when the European Elections are held.

Germany is likely to vote on Sunday 10 June.