



House of Commons

European Scrutiny Committee

Reform of the electoral law of the EU

Nineteenth Report of Session 2015–16

Documents considered by the Committee on 13 January 2016,
and recommended for debate



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Report, together with formal minutes

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Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee)*
EP	European Parliament
EU	Treaty on European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

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1 Reform of the electoral law of the EU

Committee's assessment Committee's decision	Legally and politically important Not cleared from scrutiny; recommended for debate on the floor of the House on a Reasoned Opinion before 8 February; further information requested; drawn to the attention of the Public Administration and Constitutional Affairs Committee
Document details	(a) EP Resolution of 11 November 2015 on EU electoral law reform; (b) EP Proposal for a Council Decision to amend the 1976 Electoral Act
Legal base	Article 223(1) TFEU; EP consent; unanimity
Department	Foreign and Commonwealth Office
Document Numbers	(a) (37395), —; (b) (37431), —

Summary and Committee's conclusions

1.1 On 11 November, the European Parliament (EP) adopted these documents, an EP Resolution (document (a)) and a proposal for a Council Decision (document (b)). These set out a number of measures to change the conduct of future EP elections but only those contained in the proposed legislative act, the Council Decision (b), can legally reform the European Electoral Law of 1976¹ (the 1976 Act). This Decision excludes those purely aspirational measures which are included only in the EP's Resolution (document (a)), the most prominent being the proposal for a universal minimum voting age of 17 and a common voting day. No explanatory memorandum or impact assessment accompanies the proposals nor has been sent to national parliaments. The Resolution does refer in its preamble to a "European Added Value" Assessment—equivalent to a Commission Impact Assessment— but this document provides little reference to impacts on Member States and their electoral administrations and negligible financial assessment.²

1.2 The measures in document (b) are detailed in the table at Annex 1 of this Report chapter. In short, the more significant measures include:

- common deadlines for establishing lists of candidates and for establishing electoral registers;
- making members of regional parliaments and assemblies ineligible to become MEPs;
- ensuring gender equality of candidates;

¹ Council Decision 76/787/EEC, Euratom (OJ No. L 278, 8.10.1976, p.1) as amended by Council Decision 93/81/Euratom, ECSC, EEC (OJ No. L 33, 09.02.1993) and by Council Decision 2002/772/EC, Euratom (OJ No. L 283, 21.10.2002, p.1).

² See the reference in the preamble of the Resolution to the "[European Added Value Assessment on the Reform of the Electoral Law of the European Union](#)", dated September 2015, available in English, with German, French and Polish Translations. It is produced by European Added Value Unit of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Parliamentary Research Services of the Secretariat of the European Parliament.

- proposals on voting methods, including electronic and postal voting;
- the introduction of mandatory 3-5% thresholds to win seats in the EP in those EU countries that have only one constituency or constituencies that have more than 26 seats;
- formalising the “Spitzenkandidaten” process for election of the Commission President, with the EP elections being contested with formal EU-wide lead candidates for the post and that the establishment of a transnational constituency for their selection; and
- amending the provisions in the 1976 Act to make detailed implementing rules.

1.3 The legal basis for the proposed Council Decision is Article 223(1) TFEU. This gives the EP the right to draw up a proposal to reform electoral law concerning election of its members “in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States”.³ To take effect, the proposal would need to be agreed unanimously by the Council, with EP consent, and then approved by all Member States in accordance with their constitutional requirements. The UK therefore has a national veto. Additionally, section 7(2)(b) of the European Union Act 2011 requires approval of such a proposal by Act of Parliament.

1.4 In the last Parliament, our predecessors scrutinised various other documents relevant to the conduct of EP elections, most notably the Commission’s 2013 Recommendation⁴ and the European Council decision in 2014 to nominate Jean-Claude Juncker as Commission President. An account of this previous scrutiny and the background to the current proposals is provided at paragraphs 1.22–1.25 of this chapter.

1.5 The Minister for Europe (Mr David Lidington) provides a comprehensive Explanatory Memorandum in terms of the policy implications of each of the proposals in document (b), but does not provide any assessment of its costs implications other than to say that the cost of electronic voting would be “substantial”. He also fails to provide an adequate subsidiarity assessment which should have addressed both limbs of the subsidiarity principle⁵: that the action at EU level should be taken “only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by Member States” (first limb) and only if they “can better be achieved at Union level” because of “the scale or effects” of what is proposed (second limb).

1.6 We thank the Minister for his Explanatory Memorandum, particularly his comprehensive explanation of Government policy on each substantive measure proposed in document (b).

³ Article 223(1) TFEU states in full:

“The European Parliament shall draw up a proposal to lay down the provisions necessary for the election of its Members by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, which shall act by a majority of its component Members, shall lay down the necessary provisions. These provisions shall enter into force following their approval by the Member States in accordance with their respective constitutional requirements”.

⁴ Commission Recommendation [2013/142/EU](#) of 12 March 2013 on enhancing the democratic and efficient conduct of the elections to the European Parliament, OJ L 79, 21.3.2013, p.29.

⁵ See Article 5(3) TEU.

1.7 However, we are disappointed by the inadequate subsidiarity assessment that he provides, particularly given that he will be mindful of the tight eight week deadline that national parliaments have to meet in order to submit a reasoned opinion in time to the EU institutions. This deadline has been shortened by the recent Christmas/New Year holiday period. Despite concluding that the proposal “raises subsidiarity concerns”, the Minister’s subsidiarity assessment vaguely focuses on competence concerns, fails to address both limbs of the subsidiarity principle, does not address the lack of subsidiarity substantiation of its proposal by the European Parliament (EP), seems only to imply the need for “consistency” with “other elections” and simply asserts that the EP should not seek uniformity of practices on “matters” which “should be decided at national level”.

1.8 We are also dissatisfied with the lack of any assessment in the EM of the financial implications of the proposals, other than speculation that the cost of implementing electronic voting for EP elections would be “substantial”. Given that there is some similarity in the proposals being made with the Commission’s 2013 Recommendation, we would have thought that the previous Government might have carried out some preliminary cost assessments which could have been updated for present purposes. We therefore look forward to receiving an assessment of potential cost implications of the measures in document (b) as negotiations progress.

1.9 Despite the inadequacy of the Government information provided, we consider that the European Parliament itself has failed to provide detailed information about the subsidiarity and the proportionality of its proposal. We have particular concerns about measures on eligibility to become MEPs, gender inequality, electoral registration, electronic voting and a mandatory threshold of 3-5% for gaining a seat in the European Parliament. Details of those concerns are set out in the draft Reasoned Opinion at Annex 2 of this chapter.

1.10 We recommend that the House issue a Reasoned Opinion to be submitted to the EP and the other EU institutions by 8 February 2016. In doing so, we recognise, in principle, that it is consistent with subsidiarity for the EP to propose measures at EU level to determine its own membership and the manner of its election, rather than leave such matters to Member States. However, we consider that the procedural and substantive objections to the proposal justify a Reasoned Opinion.

1.11 We would be grateful if the Minister could, as soon as possible, provide us with the following information, to assist our further scrutiny.

- a) His reaction to the proposal to give the Council power under Article 11 of the 1976 Electoral Act to determine the precise electoral period for voting to the EP instead;⁶
- b) A better explanation of why, legally-speaking, the Government considers that it is contrary to the Treaties for the EP to propose the voting procedure for implementing legislation set out in the proposed amendments to Article 11 and 14 of the 1976 Electoral Act;

⁶ It is proposed that in future the EP, after consulting the Council, will determine the electoral period for voting and will do so at least one year before the end of the existing 5 year term. At present, Article 11 of the Act gives this power to the Council acting unanimously, after consulting the EP.

- c) An evaluation of the “European Added Value” Assessment referred to the EP’s Resolution;⁷
- d) An indication of whether he has consulted the Electoral Commission, and if not, whether and at what stage he intends to do so; and
- e) Information about progress achieved on the European Council’s review of the process for the nomination of a candidate for the post of Commission President (we refer to the European Council Conclusions of 27 June 2014⁸ and the repeated requests for information on this question made by both us and our predecessors⁹). We also look forward to clarification of the proposals in document (b) on formalising the “Spitzenkandidaten” process as part of the EP elections, which the Minister says he will be seeking.

1.12 We retain the current documents under scrutiny and draw them to the attention of the Public Administration and Constitutional Affairs Committee, taking account of the work of its predecessors on voting by EU mobile citizens.¹⁰

Full details of the documents: (a) European Parliament Resolution of 11 November 2015 on the reform of the electoral law of the European Union: (37395), —; (b) Proposal for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage: (37431), —.

The current documents

Objectives and justifications for the proposals

1.13 In its Resolution (document (a)), the EP sets out the objectives and justifications for the proposed reforms in document (b). The Resolution also refers in its Preamble to “having regard” to a having regard to “the European Added Value Assessment on the Reform of the Electoral Law of the European Union”. As this document does not accompany the proposals and was not provided directly to national parliaments, we have not included a detailed assessment of it in this Report but we provide a link to it [here](#) and have commented on its inadequacy on paragraph 1 of this Report.

1.14 Some of the EP’s substantiation is specific to particular measures and it is set out accordingly in the table at Annex 1 to this Report chapter.

1.15 In addition to recognising the EP’s power pursuant to Article 223(1) TFEU to propose the reform of its own electoral procedure, more general substantiation for the reform proposals includes the following justifications:

⁷ See footnote 2.

⁸ European Council Conclusions, [27 June 2014](#)

⁹ See (36170),—: Sixth Report HC 342-vi (2015–16), [chapter 10](#) (21 October 2015); First Report HC 342-i (2015-16), [chapter 10](#) (21 July 2015); Eighth Report HC 219-viii (2014–15), [chapter 7](#) (16 July 2014).

¹⁰ We refer to the recommendations of the Political and Constitutional Reform Committee on “Voter Engagement in the UK” to simplify the registration system and to run a corresponding publicity campaign. See the Fourth Report of the Political and Constitutional Reform Committee, Voter engagement in the UK, [HC 232](#) (2014-15), (14 November 2014).

- enhancing the democratic and transnational dimension of the European elections and the democratic legitimacy of EU decision-making;
- reinforcing the concept of citizenship of the EU; to promote the principle of representative democracy and the direct representation of Union citizens in the EP, including achieving a balanced composition of the EP;
- improving the functioning of the EP and the governance of the EU;
- making the work of the EP more legitimate and efficient;
- enhancing the effectiveness of the system for conducting EP elections;
- providing for the greatest possible degree of electoral equality and participation for EU citizens, helping to revive European democracy in the face of steadily decreasing turnout;
- recognising that the harmonisation of procedure for EP elections in all Member States could better achieve the objectives listed above and also strengthen European integration;
- noting the reforms reflect the steady increase in EP competences since the first direct EP elections in 1979 and its equal co-legislator status in most EU policy areas, particularly in the wake of the Lisbon Treaty; and
- concluding that despite incremental reforms, no truly uniform electoral procedure has been achieved and EP elections are still governed for the most part by national laws, campaigning remains national and European political parties are not managing to raise European political awareness or to establish a mandate from EU citizens.

Measures proposed in document (b)

1.16 A summary of the measures proposed in document (b) is also set in the table at Annex 1 to this Report chapter.

The Government's view

1.17 In his Explanatory Memorandum of 4 January 2016, the Minister for Europe assesses the policy implications of each proposal in commendable detail. He firstly notes the unanimity requirement and then adds that consideration of the proposals is at an early stage “though the Government's initial view is that it is not persuaded of the merits of many of the proposals and does not consider that they would achieve the EP's stated objectives”. He considers that the proposals lack clarity and that the Government would be seeking further clarification in due course.

Current arrangements for EP elections in the UK

1.18 He then summarises current UK arrangements for the five-yearly election of MEPs:

- The current 73 seats are allocated across 12 electoral regions in accordance with the European Parliament (Representation) Act 2003 (EPRA);
- The EPRA provides that each region should have at least three MEP seats and then allocated in proportion to the size of each regional electorate; and
- Since 1999, elections to the EP in Great Britain have been held using the Closed List proportional representation system, and in Northern Ireland using the Single Transferable Vote (STV) system.

New measures proposed by the EP in document (b)

1.19 The Minister then addresses each of the measures in turn proposed by the EP in the draft Council Decision. The Minister’s views and explanations are set out in the column headed “The Government’s view” to the table at Annex 1 to this Report.

Subsidiarity

1.20 On the question of subsidiarity, the Minister says:

“The Government considers that this proposal raises subsidiarity concerns. Member States have competence in how they administer their elections, including deciding procedures to administer European parliamentary elections at national level, provided they comply with the 1976 Act and do not affect the essentially proportional nature of the voting system. Such an approach permits, where appropriate, consistency with other elections, such as those to national or regional parliaments or assemblies. Some of the proposals seek to achieve uniformity of practice across Member States on matters that the Government considers should be decided at a national level.”

Next steps

1.21 Finally, the Minister adds that the Dutch Presidency will start discussions at working group level in January 2016 on the proposals.

Background and previous scrutiny

1.22 In 2013 the Commission issued:

- a Communication on “Preparing for the 2014 European elections: Further enhancing their democratic and efficient conduct”,¹¹ and
- a Recommendation of 12 March on enhancing the democratic and efficient conduct of the elections to the European Parliament.¹²

1.23 To some extent, the Commission’s (non-legally binding) Recommendation overlaps with current document (b) proposing that: national political parties, facilitated by

¹¹ (34979), 7648/13: First Report HC 83-i (2013–14), [chapter 3](#) (8 May 2013).

¹² (34798), 7650/13: First Report HC 83-i (2013–14), [chapter 3](#) (8 May 2013).

Member States, should publicise their affiliation with European political parties; that European political parties should nominate and publicise their candidate for the Commission President; national political parties should inform voters about the candidate they support for Commission President; that there should be a single contact authority in charge of the exchange of data on voters; that Member States should exchange such data taking into account their respective electoral calendars, using a single electronic mechanism. However, the Recommendation also included the proposal that Member States should agree on a common day for the elections of the EP, with polling stations closing at the same time (the former now being proposed in document (a), the latter in document (b)). The previous Government rejected most aspects of these suggested measures and the documents were eventually cleared after a debate recommended by our predecessors on the Floor of the House in June 2013.

1.24 Our predecessors also scrutinised the European Council Decision¹³ to nominate a candidate for the position of Commission President which we then cleared from scrutiny on 21 October 2015. The 2014 EP elections were the first since the Lisbon Treaty to establish a direct link between the outcome of the elections and the appointment of the Commission President. As part of that process, the European political parties nominated Presidential candidates, the European Council then nominated the candidate of the majority party following the elections (Jean-Claude Juncker as lead candidate of the European Peoples' Party) and that candidate was then elected by the EP. The Decision was adopted in June 2014, by a qualified majority of EU Heads of State and Government and only the UK and Hungary opposed the nomination. The view of the previous Government was that this amounted to the EP determining the choice of candidate, when Article 17(7) TEU assigns that role to the European Council. As a concession to UK opposition to Mr Juncker's nomination, the European Council gave the following commitment in corresponding Council Conclusions:

“Once the new European Commission is effectively in place, the European Council will consider the process for the appointment of the President of the European Commission for the future, respecting the Treaties.”¹⁴

1.25 We recently scrutinised the Commission's Report on the European Elections of 22–26 May 2014. This reviewed the conduct of those elections and the effectiveness of measures taken to enhance the transparency, democratic conduct and European dimension of the elections. Despite a minimal decrease in turnout (0.36%) which varied significantly across Member States, the Commission's conclusions were mainly positive. It considered that voter engagement and understanding increased due to the linkage of the elections and the Presidential appointment, the promotion by European (and some national political parties) of a particular Presidential candidate and increased use of interactive social media and EU-wide web dialogues and debates. It also considered building on these initiatives for the 2019 process. We highlighted in our Report of 21 October,¹⁵ that the Minister for Constitutional Reform at the Cabinet Office (John Penrose) said that he was “not aware of any current

¹³ European Council Decision proposing to the European Parliament a candidate for the President of the European Commission (36170),—: Sixth Report HC 342-vi (2015–16), [chapter 10](#) (21 October 2015); First Report HC 342-i (2015–16), [chapter 10](#) (21 July 2015); Eighth Report HC 219-viii (2014–15), [chapter 7](#) (16 July 2014).

¹⁴ European Council Conclusions, [27 June 2014](#).

¹⁵ Sixth Report HC 342-vi (2015–16), [chapter 10](#) (21 October 2015).

plans to progress” the Commission’s initiatives referred to in the Report (and set out in the Recommendation) “further into legislation”.

Previous Committee Reports

None, but see (34797), 7648/13 and (34798), 7650/13: First Report HC 83-i (2013–14), [chapter 3](#) (8 May 2013); (34523), 17469/12: Twenty-seventh Report HC 86-xxvii (2012–13), [chapter 1](#) (16 January 2013); (34259), 13842/12: Nineteenth Report HC 86-xix (2012–13), [chapter 2](#) (7 November 2012); (36803), —: Sixth Report HC 342-vi (2015–16), [chapter 10](#) (21 October 2015); First Report HC 342-i (2015–16), [chapter 10](#) (21 July 2015); (36170), —: Sixth Report HC 342-vi (2015–16), [chapter 10](#) (21 October 2015); First Report HC 342-i (2015–16), [chapter 10](#) (21 July 2015); Eighth Report HC 219-viii (2014–15), [chapter 7](#) (16 July 2014).

Annex 1: Table of Measures in the proposed Council Decision

Measures in the proposed Council Decision (CD) ¹⁶ and EP substantiation ¹⁷	The Government’s view
<p>An obligatory threshold of between 3%–5% for candidates to be elected</p> <p>For constituencies (and also for single-constituency Member States), in which the list system is used and which comprise more than 26 seats, Member States must set a threshold for the allocation of seats of 3–5% of votes cast.</p> <p>Substantiation provided by EP:</p> <p><u>Preamble R:</u> whereas the existing European electoral rules allow for a non-obligatory threshold of up to 5% of votes cast to be set for European elections, and whereas 15 Member States have availed themselves of this opportunity and have introduced a threshold of between 3% and 5%; whereas in smaller Member States, and in Member States that have subdivided their electoral area into constituencies, the de facto threshold nevertheless lies above 3%, even though no legal thresholds exist; whereas introducing obligatory thresholds is recognised by constitutional tradition as a legitimate means of guaranteeing that parliaments are able to function.</p> <p><u>Para 7:</u> EP “considers this measure to be important for safeguarding the functioning of the European Parliament, since it will avoid further fragmentation”.</p>	<p>The UK:</p> <ul style="list-style-type: none"> • considers that the proposal aims to prevent extreme parties winning EP seats on a small share of the vote; • does not use or support election thresholds, as in principle they can be perceived as undemocratic and adopting a mandatory threshold would be a significant change; and • currently, would not be affected as each of its 12 electoral regions have fewer than 26 seats nor is this likely to change (South East region has biggest allocation of 10 MEPs).
<p>Measure: Common deadline for establishment</p>	<p>The Government considers that:</p>

¹⁶ The legislative act.

¹⁷ In the Resolution: there are no relevant Recitals in the proposed Council Decision. “Preamble” refers to the alphabetical paragraphs which precede the actual “paragraphs” of the Resolution. The Resolution itself does include a reference to a “[European Added Value Assessment on the Reform of the Electoral Law of the European Union](#)”, dated September 2015, available in English, with German, French and Polish Translations. It is produced by European Added Value Unit of the Directorate for Impact Assessment and European Added Value, within the Directorate-General for Parliamentary Research Services of the Secretariat of the European Parliament.

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
<p>of lists of candidates</p> <p>A common deadline of at least 12 weeks prior to the beginning of the polling period (already established as Thursday to Sunday) should be introduced for the establishment of the lists of candidates.</p> <p>Substantiation provided by the EP:</p> <p><u>Preamble O:</u> whereas the deadlines for finalising electoral lists ahead of European elections vary greatly among Member States, currently ranging from 17 days to 83 days, and this puts candidates and voters across the Union in an unequal position when it comes to the time they have to campaign or to reflect on their voting choice.</p> <p><u>Para 5:</u> This deadline will “enhance electoral equality by providing candidates and voters across the Union with the same period in which to prepare and reflect ahead of the vote; encourages Member States to reflect upon ways to ensure greater convergence between rules governing electoral campaigns regarding European elections”.</p>	<ul style="list-style-type: none"> • the proposal would be a significant change to the current UK nomination process – papers are submitted between the publication of the notice of election (which must be done no later than 25 working days before polling day) and ending at 4pm on the 19th working day before polling day; • an earlier deadline for nominations could present potential difficulties for parties and individuals wishing to stand for election if they did not have the necessary nomination papers ready by the earlier date; • political parties in the UK may not support the proposal as they may not favour having to submit their papers so far before polling day; and • if implemented for EP elections, this process would differ from that at other polls. This “could create issues; in particular, it could make it more complex to combine European elections with other polls, such as local elections, which has generally been considered to have had a positive impact on voter turnout at these polls. The Government has been seeking to align timings at elections generally and this proposal would be a departure from that policy”.
<p>Measure: Common deadline for establishment of electoral register</p> <p>A common deadline of eight weeks prior to the beginning of the polling period should be introduced for the establishment of the lists of eligible voters.</p> <p>Substantiation provided by the EP:</p> <p><u>Preamble P:</u> Whereas the deadlines for finalising the electoral roll ahead of EP elections vary greatly among Member States and may render the exchange of information between Member States on voters (which is aimed at the avoidance of double voting) difficult, if not impossible.</p>	<p>The Government:</p> <ul style="list-style-type: none"> • would not want to move the current deadline of 12 working days before polling day for registering to vote at UK elections, including EP elections — this would restrict participation at polls and may prevent eligible persons who, for example, may have recently moved, from registering to vote in the run up to the poll; • is concerned that provision late alterations would also be prevented given that the proposal requires the finalisation of the register eight weeks before polling can first begin; • considers that the concern that political parties should be aware of eligible voters is already addressed in the UK as political parties may be supplied with the electoral register, including monthly updates, at any time for electoral purposes and therefore may have access to the register 12 weeks before polling day; • believes that if the deadline was adopted for EP elections, it could make it complex to combine those elections with other polls as well as

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
	<p>disadvantage persons who wish to register to vote nearer to the time of the elections and that "such a change for European elections could prove to be unhelpful to electors and levels of participation" in the EP elections.</p>
<p>Selection of candidates by political parties Political parties participating in the EP elections should ensure that their procedures for their selection of candidates are democratic, transparent and ensure gender equality.</p> <p>Substantiation by the EP: <u>Preamble N:</u>whereas the procedure for nominating candidates for elections to the European Parliament varies considerably from Member State to Member State and from party to party, in particular as regards transparency and democratic standards, while open, transparent and democratic procedures for the selection of candidates are essential for building trust in the political system. <u>Preamble AG:</u> whereas despite continuous progress since 1979 in terms of balance between women and men in the distribution of seats, there remain considerable divergences in this regard between Member States, with 10 of them having a level lower than 33 % accounted for by the less represented gender; whereas the current composition of the European Parliament, comprising as it does only 36.62 % women, falls short of the values and objectives of gender equality championed in the Charter. <u>Preamble AH:</u> whereas equality between women and men must be achieved, as one of the founding values of the Union, while only very few Member States have incorporated this principle in their national electoral laws; whereas gender quotas in political decision-making and zipped lists have proved to be highly effective tools in addressing discrimination and gender power imbalances and improving democratic representation on political decision-making bodies. <u>Para 20:</u> Highlights the importance of an increased presence of women in political decision-making and a better representation of women in European elections; consequently, calls on Member States and the institutions of the Union to take all necessary measures to promote the principle of equality between men and women throughout the whole electoral process; emphasises in this connection the importance of gender-balanced electoral lists.</p>	<p>The Government:</p> <ul style="list-style-type: none"> • notes that these proposals are aimed at enhancing trust in EP elections and improving democratic representation in the EP; • believes that democratic institutions make the best decisions when they have a mix of people with different skills, backgrounds and experiences; • wants to ensure that women are better represented across all walks of life; but • does not consider that "legal quotas are the best way to affect change" nor that the EP's proposals, which it will consider carefully, are the "appropriate way to proceed on these matters".
<p>The affiliation between national parties and European political parties Ballot papers used should give equal visibility to the names and logos of national parties and to those of European political parties. Also, national parties should refer in their campaign material to the manifesto of the European political party, if any, to which the national party is affiliated.</p>	<p>In the UK:</p> <ul style="list-style-type: none"> • domestic law does not prevent political parties from indicating their affiliation with European parties during their campaigns for the EP elections – they are free to do so; and • political parties standing at EP elections could register with the

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
<p>Substantiation by the EP: <u>Preamble AD:</u> whereas the official establishment and consolidation of political parties at Union level are fostering the development of European political awareness and giving expression to the wishes of Union citizens, and whereas this has also facilitated the process of gradually bringing electoral systems closer together.</p> <p><u>Para 2:</u> Measures would render European elections more transparent and improve the democratic manner in which they are conducted, as citizens will be able to link their vote clearly with the impact it has on the political influence of European political parties and their ability to form political groups in the EP”.</p> <p><u>Preamble M:</u>whereas European political parties are best placed to "contribute to forming European political awareness" and should therefore play a stronger role in the campaigns for Parliament elections in order to improve their visibility and to show the link between a vote for a particular national party and the impact it has on the size of a European political group in the EP.</p>	<p>Electoral Commission an emblem showing its affiliation with a European Party as part of its quota of up to 12 descriptions and up to 3 emblems which may be used on ballot papers at UK elections.</p>
<p>Posting of electoral materials to voters Rules concerning the posting of electoral materials to voters in the EP elections should be the same as those applied by each Member State for national, regional and local elections.</p> <p>Substantiation by the EP: None specifically provided.</p>	<p>The Government understands the aim of providing information to voters about parties and candidates standing at EP elections, but considers that it was not be straightforward to align differences between the position at national, regional and local elections within Member States on a mandatory basis.</p>
<p>Use of electronic voting and postal voting Member States MAY adopt electronic and postal voting in order to make the conduct of EP elections more efficient and more appealing to voters, but if they do they have to ensure its security and reliability.</p> <p>Substantiation by the EP: <u>Preamble AE</u> whereas postal, electronic and internet voting could make the conduct of European elections more efficient and more appealing for voters, provided that the highest possible standards of data protection are ensured. <u>Para 14:</u> in order to increase the participation of, and to make voting easier for, all citizens, and especially for people with reduced mobility and for people living or working in a Member State of which they are not a citizen or in a third country, provided that necessary measures are taken to prevent any possible fraud in the use of voting by those means.</p>	<p>The Government:</p> <ul style="list-style-type: none"> • recognises that the EP is seeking to encourage participation at EP elections; • confirms that at UK elections, electors (including eligible UK citizens living abroad) are already able to vote by post; • understands that it might be attractive to make electronic voting (EV) available for elections given advance in IT but highlights concerns that electronic voting is not sufficiently transparent or secure; • considers that the selection of elected representatives requires “the highest possible level of test and, at present, there are concerns that electronic voting, by any means, is not seen by many to be sufficiently rigorous and could potentially be vulnerable to attack or fraud”; • estimates that the cost of introducing EV would be “substantial”; • notes that public support for EV is

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
	<p>"still far from universal" and traditional means of voting (such as polling stations and postal voting) remain popular and so EV would have to be introduced as an additional option;</p> <ul style="list-style-type: none"> • refers to experience of the Scottish independence referendum as proof that if people are sufficiently engaged in democratic process, they will use the existing voting mechanisms; and • concludes that "Even if proven to be sufficiently robust, such a move would require careful consideration given the current economic climate" and that given concerns about its integrity the UK has no current plans to introduce EV for UK elections.
<p>Eligibility to be an MEP Members of regional parliaments or legislative assemblies shall be ineligible to be MEPs, in line with the existing ineligibility of members of national Parliaments set out in the 1976 Electoral Act.</p> <p>Substantiation by the EP: None specifically provided.</p>	<p>The Government:</p> <ul style="list-style-type: none"> • wants to consider further the impact it may have on membership of the devolved bodies in the UK; • believes this may a matter for appropriate for individual Member States to decide given the different types of elected bodies that exist at a sub-national level across Member States and the range of powers that they have; • in view of this diversity, considers it important to ensure that any change is clearly drafted to ensure certainty and clarity.
<p>EU citizens overseas Member States must ensure that all EU citizens, including those living or working in a third country, should be able to exercise their right to vote in the EP elections.</p> <p>Substantiation by the EP: <u>Preamble Z:</u> whereas not all Member States afford their citizens the possibility of voting from abroad, and among those that do, the conditions for deprivation of the right to vote vary greatly; whereas granting all Union citizens residing outside the Union the right to participate in elections would contribute to electoral equality; whereas, however, Member States need to coordinate their administrative systems better in order to prevent voters from voting twice in two different Member States. <u>Para 12:</u> "this would finally give all Union citizens the same right to vote in European elections under the same conditions, irrespective of their place of residence or citizenship".</p>	<p>The Government:</p> <ul style="list-style-type: none"> • notes that UK law provides that British citizens living overseas (whether in another Member State or otherwise) may register to vote in European elections in the UK for a maximum of 15 years after they were last registered to vote in the UK – they may use a postal or proxy vote; • will be introducing legislation, in line with its manifesto, to enable British citizens living abroad for more than 15 years from voting; and • confirms that citizens of other EU Member States, resident in the UK, can register to vote in EP elections in the UK in the same way as British citizens.
<p>Exchange of data on voters A common deadline should be introduced for the</p>	<p>The Government:</p> <ul style="list-style-type: none"> • has concerns about the practicalities

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
<p>exchange of voter data. Data is already exchanged between Member States under Directive 93/109/EC on the right of EU citizens to vote and stand as a candidate in EP elections in Member States of which they are not nationals.</p> <p>Substantiation by EP: <u>Preamble P:</u> whereas the deadlines for finalising the electoral roll ahead of European elections vary greatly among Member States and may render the exchange of information between Member States on voters (which is aimed at the avoidance of double voting) difficult, if not impossible. <u>Preamble AA:</u> whereas at least 13 Member States do not have in place adequate internal rules precluding citizens of the Union who have dual nationality of Member States from voting twice, in breach of Article 9 of the Electoral Act.</p>	<p>of the existing process for exchange of voter information which has not proved workable in practice; and</p> <ul style="list-style-type: none"> • will consider whether the proposals would improve the current system.
<p>Voting period Voting at EP elections will continue to take place across Member States within a period of four days (from Thursday to Sunday), with each Member State fixing the date (or dates) and times for voting in their poll within that period, though voting should end by 2100 hours CET on the Sunday.</p> <p>It is envisaged that EP elections continue to be held across Member States every 5 years.</p> <p>However it is also proposed that in future the EP, after consulting the Council, will determine the electoral period for voting and will do so at least one year before the end of the existing 5 year term. At present, Article 11 of the Act gives this power to the Council acting unanimously, after consulting the EP.</p> <p>Substantiation by the EP: None provided beyond the assertion that the EP "Determines to give Parliament the right to fix the electoral period for elections to the European Parliament after consulting the Council".</p>	<p>The Government:</p> <ul style="list-style-type: none"> • welcomes the EP's respect for electoral diversity on this issue as it has a long tradition of Thursday elections; • notes that the period in which the elections are held is determined by EU law which provides that Council can move the date up to two months before or one month after the period fixed for voting, if all Member States agree, and after consulting the EP; • informs us that on the basis of that provision, the date of EP elections has previously been changed; most recently the 2014 European election was moved to earlier in 2014 to avoid a clash with the Pentecost public holiday which could have affected turnout; and • would be concerned about changing the current arrangements were this to lead to elections being held in a period that might cause difficulty for some (or all) Member States.
<p>Voting and Declaration of results It is proposed that, as now, Member States shall not officially make public their results until polling has closed in all Member States. Also, first official projections of the results should be communicated simultaneously in all Member States following the close of voting. Prior to this, exit poll-based forecasts should not be published. The counting of postal votes may only begin in all Member States once the polls have closed in all Member States.</p> <p>Substantiation by the EP: <u>Para 8:</u> this would ensure the correct application of Article 10(2) of the Electoral Act and thus reduce the possibility of the outcome of the elections being influenced if the election results in some Member States are made public before the close of</p>	<p>In the UK:</p> <ul style="list-style-type: none"> • electoral law governing the conduct of EP elections complies with EU law by providing that UK results cannot be published until polls have closed in all Member States. It prohibits the publication of exit polls until voting has ended across the EU; and • the counting of postal votes is organised so that these stages will commence before the close of polling in all Member States but completed after that time and in any case UK law prevents results from being published before the last poll closes. <p>The Government agrees that no indication of</p>

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
<p>polling in all Member States; advocates that the ban on early announcement of the election results should remain in force in all Member States.</p> <p><u>Preamble S</u>:whereas, although Article 10(2) of the Electoral Act expressly prohibits the early publication of the results of elections, such results have been made public in the past; whereas a harmonised time for the close of polling in all Member States would contribute strongly to the common European character of the European elections and would reduce the possibility of their outcome being influenced if election results in some Member States are made public before the close of polling in all Member States.</p>	<p>the result, final or projected, should go out before voting has ended in all Member States.</p>
<p>Post of President of the European Commission</p> <p>There are two proposals that seek to reinforce the legitimacy of the “Spitzenkandidaten” process for the Commission Presidency. Firstly, that the EP elections should be contested with formal EU-wide lead candidates, and secondly, that a joint constituency is established in which lists are headed by each political family’s candidate for the post of President of the European Commission.</p> <p>Substantiation by the EP:</p> <p><u>Preamble Q</u>: whereas the establishment of a joint constituency in which lists are headed by each political family’s candidate for the post of President of the Commission would greatly strengthen European democracy and legitimise further the election of the President of the Commission.</p> <p><u>Preamble V</u>: whereas the Lisbon Treaty established a new constitutional order by granting the European Parliament the right to elect the President of the European Commission instead of merely giving its consent; whereas the 2014 European elections set an important precedent in this respect and have shown that nominating lead candidates increases the interest of citizens in European elections.</p> <p><u>Preamble W</u>: whereas the nomination of lead candidates for the office of President of the European Commission provides a link between votes cast at national level and the European context and enables Union citizens to make informed choices between alternative political programmes; whereas the designation of lead candidates by open and transparent procedures reinforces democratic legitimacy and strengthens accountability.</p> <p><u>Preamble X</u>: whereas the procedure for the nomination and selection of lead candidates for that office is a strong expression of European democracy; whereas, furthermore, it should be an integral part of the election campaigns.</p>	<p>The Government:</p> <ul style="list-style-type: none"> • considers that it is unclear what is intended by the second of these proposals; • remains of the view that the Treaties clearly set out the respective roles of the European Council and the EP and that it is for the European Council to propose the Commission President and not for the EP to dictate the choice of candidate; • the Prime Minister made clear this in his statement to Parliament after the June 2014 European Council; but that • European political parties are free to nominate candidates for Commission President, and national political parties are free to declare support for those candidates, if they so choose.

Measures in the proposed Council Decision (CD)¹⁶ and EP substantiation¹⁷	The Government's view
<p><u>Para 9:</u> a common deadline for the nomination of lead candidates by European political parties 12 weeks in advance of European elections, so as to enable their electoral programmes to be presented, political debates between the candidates to be organised and Union-wide electoral campaigns to be mounted; considers that the process of nomination of lead candidates constitutes an important aspect of electoral campaigns due to the implicit link between the results of European elections and the selection of the Commission President as enshrined in the Treaty of Lisbon.</p>	
<p>Replacing unanimity by qualified majority voting for implementing measures</p> <p>Substantiation by the EP: None specifically provided.</p>	<p>The Government believes that:</p> <ul style="list-style-type: none"> • replacing unanimity with QMV for measures to implement this Act would remove an important tool that the UK and other Member States have to block unwanted measures; and • it is contrary to the Treaties of the EP to propose a voting procedure that differs from that in Article 223(1) TFEU.

Annex 2: Draft Reasoned Opinion of the House of Commons

Submitted to the Presidents of the European Parliament, the Council and the Commission, pursuant to Article 6 of Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality.

concerning

a Proposed Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage (“the proposal”)¹⁸

1. The UK House of Commons firstly notes that Protocol No 2 on the application of the principles of subsidiarity and proportionality (the Protocol) applies to the proposal since it is an “initiative from the European Parliament”¹⁹ and a “draft legislative act”.²⁰ The European Parliament is therefore subject to the obligations set out in Articles 1, 4, 5 and 7 of the Protocol.

2. The House of Commons considers that the proposal fails to meet the requirements of Article 5(3) TEU²¹ and the Protocol for the following reasons:

a) It fails to comply with essential procedural requirements set out in Article 5 of the Protocol. This states that:

“any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal’s financial impact, and in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative, and whenever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.”

The European Parliament fails to provide this detailed statement within the draft legislative act itself as this does not contain any substantive recitals.

¹⁸ Council document: Unnumbered; European Parliament document: 2015/0907/APP.

¹⁹ Article 3.

²⁰ This proposal is based on Article 223 (1) TFEU, which specifies a “special legislative procedure” and does not fall within the exclusive competence of the Union.

²¹ Article 5(3) TEU provides that “Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional or local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level”.

- b) As the Resolution²² of the European Parliament and the “European Added Value Assessment on the Reform of the Electoral Law of the European Union”²³ are not included in the draft legislative act, the House of Commons does not consider that they meet the requirements of Article 5 of the Protocol. In any event, the substantiation they provide is insufficient to enable national Parliaments to assess compliance of the proposal with subsidiarity principle. This is because:
- i) The Resolution is mostly of a general and theoretical nature and not all of the individual proposals made in the draft legislative act have been specifically justified, either on a quantitative or qualitative basis (for example, ineligibility of members of regional parliaments and assemblies with legislative powers to become MEPs, replacing unanimity by QMV for implementing measures and posting of election materials to voters); and
 - ii) The “European Added Value Assessment does not provide sufficient substantiation. For example, apart from some very broad consideration of cost implications for Member States to implement electronic voting, the document does not contain other “*assessment of the proposal’s financial impact*”. Page 13 of the Assessment makes clear that such assessment of “feasibility” that is provided, is focussed on assessing how proposals will meet the unanimity and ratification requirement of Member States and the diversity of national electoral law on EP elections, despite the recognition that the measures could have “to varying degrees, have impacts on Member States, national political parties as well as citizens”. So there is little assessment of the burdens that will be placed on national electoral bodies as a result of measures proposed.²⁴ Furthermore, the document does not address all the measures in the proposal (in particular, those on a common deadline for the electoral roll– Article 1(4) of the Proposal and ineligibility of members of regional parliaments and assemblies to be MEPs – Article 1(8) of the Proposal). Yet it does address measures that are not included in the proposal (common voting day and minimum voting age of 16). In any case, it is not linguistically accessible to all national parliaments²⁵ nor it is integrated into the more linguistically accessible Resolution. The House sets out further examples of deficiencies in the European Added Value Assessment in the substantive subsidiarity objections which follow.

3. The House of Commons recognises as the objective of both Article 223(1) TFEU and this proposal of creating a uniform procedure for direct universal suffrage to the European Parliament in order to enhance its democratic legitimacy through electoral equality. However, it does not consider that the objective requires harmonisation at a level of detail that in fact detracts from that legitimacy by divorcing the European Parliament’s electoral procedure from that which is well-established and recognised in Member States.

²² This accompanies, but is not part of the proposal i.e. the draft legislative act.

²³ This is only referenced by the Resolution: “The Reform of the Electoral Law of the European Union: a European Added Value Assessment” produced by the EU Added Value Unit of the European Parliamentary Research Service, [September 2015](#).

²⁴ There is some recognition in relation to the common minimum deadline for establishing candidate lists at national level that having a different deadline to the domestic electoral deadlines could “put pressure on domestic electoral bureaucracies and parties, especially the smaller ones” (P.16).

²⁵ It has not been translated into all the official languages of the EU and it only available in English, French, German and Polish).

4. With this in mind, the House raises the following specific objections to EU level action on the grounds that the measures in question do not comply with the principle of subsidiarity²⁶:

- a) Given the wide diversity of types of elected bodies that exist at sub-national level across Member States and their range of powers, we consider it more appropriate to leave to Member States the question of whether to make members of regional parliaments and assemblies “vested with legislative powers” ineligible to become MEPs (Article 1(8) of the proposal). There is also no assessment of the impacts of such a prohibition and no identification of any expected benefits in either the Resolution or the European Added Value Assessment;
- b) As the “European Added Value Assessment” itself recognises, the question of gender equality of candidates (Article 1(4) of the proposal) is a matter which is politically sensitive for Member States and that a “softer, non-binding approach” would be “wiser”²⁷. A simple requirement to ensure the gender equality of candidates implies the need for legal quotas which would, in our view, require further consideration and assessment.
- c) There is potential for a decreased voter turnout in the UK for EP elections if certain administrative inconsistencies created between EU and national arrangements by the proposal meant that the UK could no longer combine them with local elections. Such inconsistencies might arise in relation to common deadlines for both lists of candidates and electoral rolls (Article 1(4) of the Proposal). This would undermine the EP’s objective of increasing voter participation in the elections (Preamble B and E of the Resolution). The House notes that it is only in relation to common deadlines for candidate lists that the potential burden of different electoral practices required by the proposal on national electoral bureaucracies is recognised by the European Added Value Assessment (Page 16). Even then, it is dismissed on the grounds that this would only be a five-yearly burden and that differences would mark out the EP elections as being distinct from other elections, without any attempt to quantify the burdens to be imposed or demonstrates why this distinction promotes the objective;
- d) The European Parliament would like Member States to use electronic voting at EP elections (Article 1(5) of the proposal). The fact that this is on a non-mandatory basis²⁸ does not exempt the European Parliament from the obligation to provide sufficient subsidiarity justification of the measure for those Member States who may adopt the measure as a result of the proposal. The House considers that the consideration of costs implications in the European Added Value Assessment on this measure is limited and unclear: the Assessment acknowledges the lack of empirical evidence linking voter turnout and electronic voting and, in default, the sole example of one Member State, Estonia, having used the system in the EP elections of 2009 and 2014 is used to justify the recommendation for all. This is despite the fact that although in 2009 turnout in that country increased by 16% compared with 2004, there was then a 7% decrease in

²⁶ Article 5(3) TEU.

²⁷ See footnote 6, p.29.

²⁸ Though the consequential requirement to ensure the reliability of the result, secrecy of the vote and data protection is itself mandatory.

2014. The recommendation is also made despite the adverse experience of the Netherlands in piloting a system which was insecure, the German Constitutional Court having declared it unconstitutional and a generalised conclusion based on a study by one Member State²⁹ that electronic voting if used as a substitute for paper voting, could be more cost-effective (Pages 26, 27 and 28 of the Assessment). However, the House notes that the UK Government considers that the costs of implementing electronic voting in the UK could be “substantial”³⁰ and is also concerned that the uncertain integrity of electronic voting systems and the attendant risk of electoral fraud could undermine the EP’s objective of increasing its own democratic legitimacy (Preamble B of the Resolution); and

- e) The European Value Assessment provides unclear substantiation of the need for a mandatory 3-5% mandatory threshold for gaining a seat in the European Parliament (Article 1(3) of the Proposal). It describes the legal practice of mandatory electoral thresholds as “widespread” in Member States but the evidence it provides indicates that only 15 Member States have already introduced the required threshold (Page 17 of the Assessment). But the remaining 13 Member States not adopting that practice represent a sizeable number of non-practising Member States. The evident varied practice of Member States and their differing political and electoral circumstances suggests that this is a matter best decided at national level. The House also considers that such a requirement could undermine the European Parliament’s objective of enhancing its democratic legitimacy (Preamble B and E of the Resolution) and broadening its composition if, as a consequence, it excludes minority and independent candidates.

²⁹ A study by published by the French Senate but which is not accessible from the link provided.

³⁰ See para 41 of the Explanatory Memorandum of the Minister for Europe of the UK Government (Mr David Lidington) of [4 January 2016](#).

Formal Minutes

Wednesday 13 January 2016

Members present:

Sir William Cash, in the Chair

Geraint Davies
Richard Drax
Damian Green
Kelvin Hopkins
Calum Kerr

Stephen Kinnock
Mr Jacob Rees-Mogg
Alec Shelbrooke
Mr Andrew Turner
Heather Wheeler

Draft Report, proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.25 read and agreed to.

Annexes read and agreed to.

Resolved, That the Report be the Nineteenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Wednesday 20 January at 1.45pm.]

Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

Current membership

- [Sir William Cash MP](#) (*Conservative, Stone*) (Chair)
- [Geraint Davies MP](#) (*Labour/Cooperative, Swansea West*)
- [Richard Drax MP](#) (*Conservative, South Dorset*)
- [Peter Grant MP](#) (*Scottish National Party, Glenrothes*)
- [Damian Green MP](#) (*Conservative, Ashford*)
- [Kate Hoey MP](#) (*Labour, Vauxhall*)
- [Kelvin Hopkins MP](#) (*Labour, Luton North*)
- [Calum Kerr MP](#) (*Scottish National Party, Berwickshire, Roxburgh and Selkirk*)
- [Stephen Kinnock MP](#) (*Labour, Aberavon*)
- [Craig Mackinlay MP](#) (*Conservative, South Thanet*)
- [Mr Jacob Rees-Mogg MP](#) (*Conservative, North East Somerset*)
- [Alec Shelbrooke MP](#) (*Conservative, Elmet and Rothwell*)
- [Graham Stringer MP](#) (*Labour, Blackley and Broughton*)
- [Kelly Tolhurst MP](#) (*Conservative, Rochester and Strood*)
- [Mr Andrew Turner MP](#) (*Conservative, Isle of Wight*)
- [Heather Wheeler MP](#) (*Conservative, South Derbyshire*)

The following member was also member of the Committee during the parliament:
Nia Griffith MP (*Labour, Llanelli*)