

# European Electoral Systems Handbook

*Edited by*

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Butterworths

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# Preface

The variety of electoral systems to be found amongst the nine member-states of the European Communities (not to mention the other possible models to be found elsewhere in the world) is the essential context in which the European Parliament will have to set about its task of establishing a uniform system for its own elections in the future. The present study of the existing systems (and, in the last chapter, of the steps taken by each country in preparing for the first direct elections) arose from the work of a research project at the European University Institute at Florence concerned with examining the prospects for a uniform system to be used in later elections to the European Parliament. The project team, drawn from the Institute's departments of law and of political science and representing the nine member-states, soon found that the essential preliminary to its work was a correct understanding of each existing national system. The team, it was felt, was peculiarly equipped to acquire such an understanding and, further, to provide a basic handbook for others interested.

It is important that readers should not misunderstand the objectives which the editors and contributors have had in mind. We have not attempted to produce a theoretical work. There are, in our various languages, many admirable volumes of that kind. We have not attempted broad comparisons extending outside Europe — our objective (and what we hope is our competence) is limited to the Nine. We have not attempted to assess the merits of particular systems in any absolute sense, though contributors have necessarily to discuss what particular political cultures may discern as merits in their own system. We have not written for an academic readership, though we hope that we have written with sufficient accuracy and clarity to make the book useful to university teachers and students. We have had particularly in mind as our potential readership

those who have to be politically well-informed: politicians, administrators, journalists, for example; though we hope that other politically conscious citizens will find a value in our work.

These objectives explain the plan we have adopted. It was decided to prepare a schema which would ensure, so far as the subject-matter permits, uniformity of treatment, country by country, and guarantee that readers could make swift comparisons on particular points by following the paragraph number from chapter to chapter. Of course, there are drawbacks to such an approach; if it could be perfectly executed, then the task of establishing a uniform system for direct elections would be an easy one, for if the various national systems could all be fitted into such a schema as ours without discomfort this would imply that the differences between them are much less than they are. We recognised that there must be apparent inconsistencies arising from the substance of different systems and the political context in different countries. This problem goes beyond such obvious points as that a heading (our C7) 'Constituencies' has to be followed by very different comments in the cases of the Netherlands and of the United Kingdom. It means that the treatment of some topics may be disproportionately long in appearance in the case of some countries. The federal institutions of Germany have had a particular impact, for example, on the presentation of 'political context' (our A3) in the chapter on that country. The presentation of 'Counting' (our C8) is extended in the case of Ireland, because the method of counting is specially at the heart of the Irish system. Readers will soon find other examples for themselves. The schema, giving fuller information on each heading than the abbreviated headings used in the individual chapters could afford, is set out on p. xi, *post*.

Our hope is that by diffusing information in accessible form on the electoral systems of the Nine we shall have done something to assist the development of constructive approaches to finding an acceptable uniformity of system for the European Parliament.

We are indebted to the Commission of the European Communities for general co-operation and support in the project of which this particular study is a by-product, and we wish to thank the Directorate-General for Research and Documentation of the European Parliament for assistance given, and the European University Institute for facilitating various aspects of the work.

February 1979 GH JG CS

## Postscript

This book had already gone to the printers when, on 26 February, 1979, Christoph Sasse died in a road accident at Florence. His fellow editors and fellow contributors wish to place on record that the idea for this book and the energy which saw that it took concrete shape were his. It is the last achievement of a dedicated scholar and European which he himself saw, not indeed, in print, but in complete typescript.

March 1979 GH JG

# European Electoral Systems Handbook

## The uniform plan followed in the chapters dealing with the individual member-states

Contributors were asked to proceed on a uniform agreed plan in order to facilitate cross-reference and comparison. This is set out below, with the short headings actually used in each chapter on the left and expansion and explanation on the right. As readers will soon discover, some headings used in the sections dealing with 'Elections and parties', while important in some elections systems, are meaningless in others: obvious examples are C7 and C9. Further, in some contributions it was thought appropriate to merge the treatment of certain closely related topics.

### **A Introduction**

A1 Historical outline

A2 Type of system

A3 Political context

The general classification of the system. Significance of the system in relation to constitutional structures and political culture (e.g. the question of an obligation to vote relates to the concept of democratic participation); where problems of federal, regional, and devolutionary structures are appropriate they are discussed under this heading.

### **B Method of voting**

B1 Franchise

B2 Voter identification

B3 Voting paper

B4 Validity of vote

B5 Special voting procedures

Formal qualifications for the franchise; compilation of registers and lists.

Establishment of the right to vote at the polling station.

The form of the voting paper and the manner of marking it; voting machines; provision for special arrangements at the polling station (e.g. for blind voters).

Disallowance of the vote and personation. Can fraudulent votes be traced? (The emphasis here is on the actual voting process; subsequent disputes procedures are treated in E2.)

Postal voting; voting by proxy; position of citizens abroad.



**C Elections and parties**

- C1 Frequency of elections Normal parliamentary term; timing, especially of premature elections, as a political decision.
- C2 Election dates How is the precise election date selected? What days of the week are available? Regulations governing the lapse of time between different stages of the process.
- C3 Political parties in electoral law Have political parties as such a legal status? Where appropriate in the particular system, what requirements are there before a party or group can present a list?
- C4 Existing parties Number and names of parties represented in parliament. (Contributors have been left a discretion regarding the mention of parties not currently represented.)
- C5 Party financing The emphasis here is on the manner and extent to which funds from public sources may be made available to political parties for election purposes.
- C6 Election campaign Campaign regulations and procedures: duration, control of expenses, access to the media and to specialist firms (e.g. in public relations and publicity).
- C7 Constituencies If a constituency system is employed, how the constituencies are constructed and boundaries established.
- C8 Counting Procedures in general for counting the votes. Where is the count conducted? At what level of aggregation are the votes added together for the purposes of allocating seats to parties? What (where appropriate) is the number of seats per level of aggregation?
- C9 Seat allocation Methods of allocation of seats to parties and, where applicable, the method of disaggregating party seats from multi-member constituencies to smaller districts.

C10	Thresholds and party bans	Thresholds, both imposed by law and inherent in the mathematics of the particular system, which have to be passed before representation is possible; in certain cases, inherent thresholds which make representation certain; bans on particular political parties.
<b>D</b>	<b>Individual candidates</b>	
D1	Candidacy	Formal qualifications for candidature and requirements for nomination; deposits.
D2	Incompatibilities	Offices, etc., incompatible with parliamentary membership; manner in which incompatibilities are resolved.
D3	Selection procedures	Candidate selection procedures within the political parties.
D4	Independents	Can independents stand? Their significance in practice in the system.
D5	Voter preferences	How voters can affect the fortunes of individual candidates in the actual election: variations in list order, effect of preferential votes, etc.
D6	Casual vacancies	Filling of casual vacancies arising between general elections.
<b>E</b>	<b>Election results</b>	
E1	Declaration and validation	Formal declaration and legal validation of the results.
E2	Disputes	Adjudication of disputed elections.
E3	Last election	Results of the last election.
<b>F</b>	<b>Conclusion</b>	

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# Belgium

*Guido van den Berghe*

## A Introduction

### A1 Historical outline

Since its independence in 1830 and the subsequent promulgation of the Constitution on 7 February 1831, the kingdom of Belgium has elected its bicameral legislature. The evolution of the electoral regime can be subdivided into different periods, each the result of a compromise between the dominant political forces of the country.

By looking at the composition of the electorate, one can see that for the election of the Constituent Assembly on 3 November 1830, only a fraction of the population had the right to vote. The electorate consisted of 49,099 electors out of a population of 4,076,513, thus just over 1 per cent of the population<sup>1</sup>. Only representatives from the moneyed class were, therefore, elected. It came then as no surprise that in drawing up the Constitution to establish parliamentary democracy in Belgium, the representatives agreed that only those citizens possessing a certain economic independence and thus able to pay a substantial amount of direct taxes to the state, would be able to participate in the affairs of the state.

A growing awareness amongst the working classes of their bad social conditions finally made this situation untenable and universal plural suffrage, tempered by a system of plural voting, was introduced by the constitutional revision of 1893. All Belgian males over twenty-five years

1 Those able to vote were male Belgians of over twenty-five years of age who paid a high amount of direct taxes to the state or who could prove certain special qualifications: J. Gilissen *Le Régime représentatif en Belgique depuis 1970*, pp. 83–84.

of age, who had lived for more than a year in the same commune had the right to vote, but some specific categories of electors could cast up to three votes in an election. As a result of the new electoral law, the number of registered electors rose from 137,772 out of a population of 6,262,272 in 1893 to 1,370,687 out of a population of 6,341,958 in 1894<sup>2</sup>.

The introduction of plural universal male suffrage, although still favourable to the conservative section of the electorate, marked the beginning of the political emancipation process, which led to the introduction of universal singular male suffrage by the law of 9 May 1919. This was done without constitutional revision, therefore being clearly unconstitutional, but the constitutional revision of 1921 rectified the situation, *post factum*.

According to the law of 9 May 1919, the right to vote in elections for the Chamber of Deputies and the Senate was given to every Belgian male over twenty-one who had resided for at least six months in the commune in which he wanted to vote. It was not until 1948 that women acquired the same voting rights as men in national elections.

As a result of these changes in the electoral law, the electorate rose in 1919 to 2,102,710 out of a population of 7,577,027 and even further in 1949 to 5,635,452 out of a population of 8,625,084<sup>3</sup>.

This trend continued, although at a slower pace, during the 1950s and the 1960s. However, at the legislative elections of 16 April 1977, the electorate, for the first time, declined in relation to the previous legislative elections. 6,311,985 people had the right to vote<sup>4</sup>. This phenomenon is a clear reflection of the stagnation of the Belgian population which, at 1 January 1977, numbered 9,823,302<sup>5</sup>.

## A2 Type of system

On the national level, Belgium has a parliament that consists of two chambers, the Chamber of Deputies and the Senate.

Each of the 212 members of the Chamber of Deputies and 106 members of the Senate is directly elected by universal suffrage from

- 2 J. De Meyer 'Elections et partis en Belgique' *Verfassung und Verfassungswirklichkeit*, vol. 4, p. 51.
- 3 J. De Meyer, *op. cit.*, p. 51.
- 4 Courrier Hebdomadaire du Centre de Recherche et d'Information Socio-Politique (CRISP), Les élections législatives du 17 avril 1977, no. 763, 1977, p. 4.
- 5 *Het Belgisch Staatsblad – Le Moniteur Belge*, 10 November 1977, p. 13,494.

lists presented in the electoral *arrondissements*. A smaller group of senators, now seventy-five, are indirectly elected. Fifty of these are elected by the nine provincial councils. Their number increases if the population of the province increases. Half of the number of senators elected by the provincial councils, now twenty-five, is co-opted by the Senate itself. These last two categories of senators were introduced by constitutional revisions respectively in 1893 and 1921 as a counter-balance to the democratisation of the Chamber of Deputies. Their election takes place according to the D'Hondt system. There is a fourth category of *de jure* senators, now one, namely the sons of the king, or if there are none, the princes of the branch of the royal family called upon to reign. They become members of the Senate at eighteen, but can only vote there at twenty-five.

The voting, according to article 48(3) of the Constitution, is secret. This criterion which is an indispensable condition for the independence of the voter, was introduced into the Constitution after the constitutional revision of 1921. But the electoral law had already anticipated this principle on 7 July 1877.

Parallel to the stages leading to the introduction of universal singular suffrage, the method of allocating seats changed. From 1831 to the law of 29 December 1899, which introduced the d'Hondt system of proportional representation, candidates continued to be elected on simple majorities from the lists presented. The system of proportional representation was raised to a constitutional principle (article 48(2) of the Constitution) during the constitutional revision of 1920–21, and was completed by the system of provincial allotment (law of 22 October 1919).

### A3 Political context

Looking at the evolution of the parliamentary regime over this century and leaving aside the increasing influence of the government and various interest and pressure groups, the electoral system has returned a parliament in which the Chamber of Deputies and the Senate have become increasingly more alike. As the two chambers have basically the same competences, because the legislative power is vested in both of them (and the king), and as the government has to obtain a majority in both houses, the role of the three 'traditional' political parties – the Catholics, the Liberals and the Socialists – has been a predominant one. Apart from a rare exception, Belgium has, since the introduction of

universal single suffrage, had a multi-party system in which the government has always consisted of some or all of these parties. The voter who since 1893 has had a legal obligation to vote<sup>6</sup> clearly perceived this reality and in so doing even reinforced the influence of these parties.

This classic pattern has changed since the breakthrough in the 1960s of the 'linguistic parties', the *Volksunie*, the *Front Démocratique des Francophones* and the *Rassemblement Wallon*, as a result of the withering away of the unitary character of the state and the emergence of a country consisting of three regions, Flanders, Wallonia and Brussels, and two, Dutch- and French-speaking, communities. Although this phenomenon has until now had no consequences on the electoral system as such, the *Volksunie* and the *Front Démocratique des Francophones* entered the government for the first time after the election of 17 April 1977, pushing the Liberals into the opposition. The government is at present working out a regionalisation plan that envisages an extensive constitutional revision whereby the electoral system will be brought into alignment with this new reality.

## B Method of voting

### B1 Franchise

The electorate is formed by the total number of electors who have the right to vote. In order to be an elector, both for the Chamber of Deputies and for the Senate, one has to be (article 47(1) of the Constitution):

- 1 Belgian;
- 2 over twenty-one years of age;
- 3 resident<sup>7</sup> in the same commune for at least six months (in which one wants to cast one's vote);
- 4 exempt from the categories of exclusion or suspension, determined by law.

The latest modification of the electoral law of 5 July 1976 slightly enlarged the electorate, by no longer making a distinction between a

6 Compulsory voting (art. 48(3) of the Constitution) was introduced as a counter-balance to the extension of the right to vote and also to combat the high abstention rate. Although provision has been made for legal sanctions, they have not been widely used.

7 'Resident' here relates to the Belgian concept of *domicile/woonplaats* and suggests a much more enduring connection than the concept of residence normally does in English.

Belgian citizen by birth, marriage or by full naturalisation. This means that an inhabitant who becomes Belgian by ordinary naturalisation, or a woman who marries a Belgian has the right to vote. Before this change in the law, a woman could only become an elector after having lived in Belgium for ten years after marrying a Belgian.

The minimum age of an elector is still twenty-one years for legislative elections. The provisions of article 47 of the Constitution were submitted for revision in 1968, but the early dissolution of parliament stopped the lowering of the minimum voting age to eighteen years. Since the law of 1 July 1969, the minimum voting age for communal elections has, however, become eighteen.

The innovation, introduced by the law of 5 July 1976, is that the capacity of elector no longer results from inscription in the electoral lists, but from conditions determined by law. The elector has to meet these above-mentioned conditions, at the latest on the day of the election.

The provisions of exclusion and suspension from electoral rights are governed by articles 6 and 7 of the electoral law. These electoral incapacities exist *de jure* and enter into force from the moment that a sentence has been pronounced.

The modification of the electoral law of 5 July 1976, remodelled these articles and brought them into alignment with the evolution of the penal law. Article 6 permanently excludes those convicted of a crime from having the right to vote. Article 7 specifies every case in which the suspension of electoral rights is applicable, e.g. deprivation of rights, isolation on the grounds of mental illness, mental retardation and confinement, sentence to at least three months imprisonment. The duration of this suspension is governed in each case by article 7 of the electoral law.

## B2 Voter identification

According to article 48(3) of the Constitution, the commune is the place where in principle the votes are cast. Exceptions to this rule are determined by law. This decentralisation of the election operations was introduced after the constitutional revision of 1893 in order to combat abstentions and electoral corruption.

The communes are divided into one or more polling stations. The elector receives a letter of convocation indicating in which polling station he has to cast his vote. He only receives his ballot papers after



the letter of convocation and his identity card have been checked by the president of the polling station. Here, too, the modification of the electoral law of 5 July 1976 has introduced many changes.

The list of electors published biennially by the communal authorities was replaced by a permanent electoral register (article 10 of the electoral law). This avoids the exclusion of electors who became eligible to vote between the dates on which the list was published, and reduces substantially the number of electors who have to return to their former commune, after having moved to a new one.

This permanent electoral register is kept in card-index form and records the name, Christian names, date of birth, address and occupation of the elector. The communal authorities also prepare a supplementary register, containing the names of people who, after a certain lapse of time, will enter the electoral register. They are either people who comply with all the formal qualifications for the franchise but who have not yet resided for six months in the commune, minors who will reach the age of twenty-one, or people who will regain their electoral rights after their suspension.

As the register is kept on a permanent basis, it is easier to raise objections to it. According to article 18 of the electoral law, anyone wrongly entered, omitted or deleted or whose particulars are entered erroneously in it can lodge an objection with the mayor and aldermen. Their decisions can be appealed against in the Court of Appeals (article 27 of the electoral law), and in the Supreme Court of Appeal (article 39 of the electoral law).

### B3 Voting paper

Every elector receives two ballot papers, one for the Chamber of Deputies, the other for the Senate. The papers contain the lists presented in the electoral arrondissement of the elector. Each list is headed by a number which is chosen by lottery at the Ministry of the Interior twenty days before the election. The sequence of the lists on the ballot paper is determined by the number they obtained.

Since the modification of the electoral law of 5 July 1976, the party initials appear along with the number on the ballot paper. The government had wanted to abolish the lottery system, but the legislature chose to maintain it.

Above every list and next to the name of the candidates and substitutes is a black square with a white circle. The order of names on the list is not arranged alphabetically, but is determined by a variety of selection