

Review of the Balance of Competences between the United Kingdom and the European Union

Evidence

Voting

This document is a record of all of the evidence submitted to the Voting section of the Voting, Consular and Statistics Call for Evidence.

The Report is part of the UK Government's Review of the Balance of Competences between the United Kingdom and the European Union.

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Review of the Balance of Competences: Voting Response Form

The response form for the Voting section of the Voting, Consular and Statistics suggested the following five questions:

- 1. What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.**
- 2. What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?**
- 3. What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.**
- 4. Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.**
- 5. Are there any general points you would like to make which are not captured by the above?**

Respondents were free to expand on these questions or present their response in another format if they wished.

Anonymous (1)

I have been asked to respond to this consultancy paper. I am retired, living in France and help the organisation Votes for Expat Brits.

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

Representation at the European Parliament for British citizens: It is essential that British nationals living in Europe are represented by their English speaking MEPs who understand their background. Currently such representation is available only if the citizen has lived abroad for less than 15 years. "So-called long term overseas residents are equally affected, if not more so by laws emanating from Brussels, shaped by UK government ministers and UK MEPs. Their experience of free movement gives them added interest and experience in the matter; their voice is all the more worthy of being heard by British lawmaking in Brussels". (quoted from Report of Cross Party Group on Overseas Voting). This is a valid reason for removing the time limit to enable this democratic link. After all, if a Referendum takes place it is those living "abroad" in Europe who will face huge difficulties should (hopefully not) the answer be to withdraw. They would effectively become "stateless" citizens.

It is against the spirit of democracy to retain the 15 year limit as it is against the founding principle of freedom of movement which promises thus freedom to choose the Member State in which to take part in European Elections.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

This is related to the European context. The UK parliamentary franchise is confined to those who have a close connection to the UK and who are therefore considered to be most directly affected by its laws.

It is nonsense to suggest British Citizens living in the wider EU are not directly affected by laws passed by Westminster including treaties between the UK, their resident country and the EU. Many (especially pensioners) derive all their income from the UK, pay UK tax, own property, most listen to the BBC radio and TV and are deeply interested in the political situation in the UK. Regarding the latter I would suggest many are far more interested in and up to date with such matters than many residents of the UK. Perhaps (as with other countries) consideration could be given to having an MP to represent British citizens living abroad.

Younger British citizens move with their work around Europe but are linked to their nation state. The idea promoted by some that they should change their citizenship is

obviously nonsensical. Effectively their right of free movement is curtailed effectively by losing all political representation after 15 years.

After all the fundamental principle of democracy is that the citizen should have a voice with whichever law making authority affects them. The group Let Me vote concerns this point. Representation in France at the local commune level is working very well. The local communes welcome the interest and practical input of the British and other nationals.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

Others will have better knowledge.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

The European Citizens Advice Service is excellent (previously called the Signpost Service).

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

1. Communication with the electorate. If the UK Government tells British citizens living abroad "you cannot vote after 15 years", it effectively angers and disappoints, effectively killing off any interest in politics and a complete distrust of politicians. It also creates a bad and critical attitude of the UK that is often unfortunately translated to their French friends. The Gov. and political parties need to show an interest in their citizens/subjects living in the wider EU. At the root of the problem is an absence of political will to ensure British citizens living abroad are taken seriously as being eligible to vote. There appears to be an attitude amongst politicians of embracing or not consciously rejecting the myths of "rich layabouts seeking the sun". More importantly is an ignorant and patently untrue comment (for many, many such people) - as has been reported by the Home Affairs Select Committee in 1998 - "that for a British citizen living abroad for 20 years, an understanding of politics would be rooted in the past and not in contemporary British politics".

2. Many British citizens who are retired:

- Continue to pay taxes in the UK, own property, receive UK state pensions.
- Also have contributed to the British economy during their working lives by working there and overseas for decades.
- Have worked in the voluntary sector for years - thus also helping the British economy.
- Donated to their charities of choice including Help for Heroes, served the the British armed forces.
- Are only "overseas" in a purely geographical sense; they are at home in Europe.

3. Citizens living abroad should be given the right to vote in perpetuity. In the interests of democracy all UK citizens, wherever they may reside, should have the right to vote in both UK parliamentary elections and in a future EU Referendum. In most developed democracies citizens have the right to vote in perpetuity. In the UK that right is limited to 15 years. As has been said by many (including some but too few) politicians, it is the very least Government can do for people who in many cases have paid UK taxes throughout their lives, may have fought for their country and have children and grandchildren still living in Britain.

The Government must act now. TAXATION WITHOUT REPRESENTATION reflects badly on the British Government and ALL political parties who currently cannot claim to be democratic on this issue.

No member state should discriminate against its own citizens on grounds of residence in another Member State.

[REDACTED]

Anonymous (2)

Every citizen of every Country in the European Union should have the democratic right to vote in any Referendum or General Election in the Member State of which they are Nationals. EU Citizens have the fundamental right to move freely within the Union.

- As a British Citizen by birth and for more than seventy years, living and paying taxes in Britain,
- As an owner of property in Britain, paying local taxes, and
- As a parent of children living in Britain who are paying substantial taxes there;
- As one who has given much time to voluntary work and served in the Army,
- I have a greater interest than many living in Britain in how my Homeland is governed.

Most Member States of the Union allow their citizens living abroad to vote in perpetuity in their home country's National Elections and Referenda. I should be able to exercise my fundamental right to do so as well without this arbitrary time limit. This is profoundly undemocratic. The Government cannot claim to speak for the interests of all British subjects when after 15 years those living abroad have no voice in any future referendum on UK membership of the EU. To have any credibility the Government must change the law now and not dismiss it as irrelevant.

[REDACTED]

I work with the organisation Votes for Expat Brits here in France

Association of Electoral Administrators (AEA)

Formal response to the Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union

1. Introduction

1.1. The Association of Electoral Administrators (AEA) was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has some 1,750 members, the majority of whom are employed by local authorities to provide electoral registration and election services.

1.2. This paper sets out the AEA's comments on the issues raised in the Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union insofar as the Voting section is concerned. In accordance with the AEA's non-partisan and neutral position, this paper does not offer any views on the political implications raised in the Call for Evidence.

1.3. In essence, the AEA's comments relate only to the first question. Questions 2, 3 and 4 are not matters we would normally comment on. We have no other general points in response to question 5.

2. Comments in response to Question 1 - "What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections"

In terms of question 1, our view is that the current balance of competences is generally at the right level save for the following three issues.

2.1. Information Exchange

Our experience is that this overall process does not work in practice in respect of clearly identifying electors who have opted to vote in their "home" country. The reasons for this have been well rehearsed by Cabinet Office officials. In our view, a more robust system needs to be put in place or the matter should simply be left to ensuring that the appropriate sanctions for voting twice at the same election can be employed in each of the member states according to the laws adopted in those states.

2.2 . Day of Poll

We believe firmly that the day of poll should remain a matter solely for member states. Any change to that arrangement would potentially cause confusion for the British electorate and probably lead to increased costs if the poll at European Parliamentary elections was not combined with polls at other elections due to be held in the same year as such elections.

2.3. Close of the Poll/The Count

The time for closing the poll on the last possible day for the election has an effect on the time at which the count can be held and, eventually, on the time the results can be announced. We recognise that the decision as to the time for closing the poll is a matter for individual states. However, "late" decisions can cause difficulties and additional costs in other states and particularly in the UK which is generally one hour behind the rest of Europe. We would suggest therefore that there should be a time limit as to when such a decision must be made, e.g. six months prior to the first day available for polling.


Chief Executive
June 2014

Lyn Atterbury

I am a British Citizen resident in Poland. I have lived here permanently since 2001 and on a temporary basis since 1998. I have recently retired after teaching for many years in higher education. I wish to submit evidence as follows:

1) The 15 Year Rule.

This is a statutory provision whereby British expatriate citizens are automatically disenfranchised 15 years after last being registered to vote in the UK. This is an archaic provision that is not only unjust, but fails to reflect the huge changes in travel patterns, employment trends, and communications that have taken place over the last 20-30 years. I make the following observations:

a) the 15 year rule reflects a time when moving abroad really did sever or at least weaken ties with the UK. That is no longer so. British citizens living in other countries in the EU are next door neighbours. They can fly to the UK within a couple of hours and can maintain a social life in the UK; maintain close contact with their families and friends in the UK; spend in the UK and take holidays in the UK. They can also maintain a keen interest in UK politics.

b) Many expatriate British citizens have moved to other EU countries to find work. They act as informal ambassadors of British life and culture. Freedom of movement is a fundamental principle of the EU.

c) In some circumstances British expatriate citizens remain subject to UK tax laws, and have tax obligations in the UK, notwithstanding double taxation treaties. A proportion of expatriate British citizens are also in receipt of UK State Pensions.

The 15 year rule is antiquated and unjust. It reflects circumstances that have long changed and that are no longer relevant. The franchise should be a right of citizenship in perpetuity regardless of place of residence. It is a matter for the individual whether or not that right is exercised. British expatriate citizens have committed no crime by living in other EU countries and they should not be disenfranchised for doing so.

2) The Statutory Electoral Timetable.

There is a major problem with the statutory timetable for postal voting. Even if expatriate citizens have the right to vote, and exercise it, most are still disenfranchised in practice because the statutory timetable allows insufficient time for ballot papers to be posted abroad and returned in time for an election. The statutory electoral timetable requires revision.

3) Parliamentary Representation.

There is a case to be made for expatriate British citizens to be directly represented in the UK Parliament by an elected MP(s). An MP (s) who would have direct responsibility for the interests of British expatriate citizens. As a starting point two constituencies should be considered: a constituency for Europe and an Overseas constituency for the rest of the world. It may be necessary to create further constituencies in due course.

L J Atterbury

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

05 April 2014

Melvyn Anthony

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

1/. Representation at the *European Parliament* for British Citizens.

It is highly desirable that British Nationals are able to be represented by English speaking MEPs who thereby thoroughly understand the background of the British Citizen

At the moment any such representation is available ONLY if the citizen has resided 'abroad' for less than 15 years. This time limit must be removed to enable this vital democratic link.

The EU law states...

See pp 4.16 page 12 of the introductory notes.

4.16 EU citizens can **choose** whether to vote in their Member State of citizenship or of residence.

IT IS UNDEMOCRATIC to retain the 15 year limit for it is in opposition to the spirit of European law, preventing citizens choosing where to vote for an MEP.

The 15 year limit violates the spirit of article 4.1 of Directive 93/109/EC.

It also is contrary to the spirit of the introductory paragraph 10 (page 2) of the Directive which promises Citizens the freedom to choose the Member State in which to take part in European elections.

The present situation is that by being retained as a 'constituent' for a British Constituency it enables one to be represented by the associated BRITISH MEP – however....

It would be desirable if British MEPs had the responsibility at all times to represent British Citizens residing in other States of the EU . (see answers to Question 3 & 5 below)

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

Representation at the Westminster Parliament for British Citizens abroad in the EU. This at first sight appears unrelated to the European context but it most surely is! The same electoral laws should apply uniformly across the Union.

para.. 4.30 of the accompanying notes raises this issue and it needs to be addressed. I quote in relation to the Harry Shindler case “the ECtHR who ruled that there had been no violation of Article 3 of Protocol 1 by the UK and that the UK had legitimately confined the parliamentary franchise to those citizens who had a close connection to the UK and who would therefore be most directly affected by its laws..”

Those British Citizens who live in the wider EU (I write especially, but not exclusively, for the pensioners) *know this ruling to be fallacious*. For most, all their income is derived from the UK – many must pay tax to the UK - their cultural and family and social connections are with the UK – many own property in the UK – nearly all listen to British radio and TV and are as aware as anyone resident in the UK of the political situation in the UK – treaties are formed between the UK and their resident State and the EU which affect them most deeply. Laws are made at Westminster which affect them profoundly. Their concerns are so wide that it would be democratically intuitive to consider the institution of an MP or MPs to represent them.

Although the British Citizen abroad is by his/her very existence a good or bad ambassador for Britain and most are proud of their British heritage, the British Government by its blindness to their value has made many angry and thoroughly disillusioned with all politicians. They are thus turned off voting or having an interest in political activity. It is dangerously sad, for they then report ill of Britain with their European friends. The French have such a different view of their citizens abroad.

Citizens (especially the younger ones) move around Europe and yet are linked to their Nation State. The idea that they should at each move change their citizenship is an obvious nonsense. Their Right of free movement is curtailed by in effect losing all Political Representation.

3/. MEP representation for British Citizens in Switzerland and Norway.

Since these States have no MEPs, the British Citizens there (after 15 years abroad) have no possibility of representation by anyone at all!

4/. Representation at the National level in the EU State where a British Citizen is living.

The fundamental principle of Democracy is that the citizen should have a voice with whichever law making authority affects the citizen. The EU laws say that one can vote (have a voice and dialogue!) at the very local level but no more.

There is a cry in Europe N.B. The Euro- Citizen's Initiative 'LET ME VOTE' . It concerns this very point.

5/. Representation at the local commune level. This (in France and I believe in Spain) is working supremely well. The local communes in France welcome the input of the British and other nationals.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The Responsibilities of MEPs. MEPs are elected for 'constituencies' and become members of a list. That might give them an impression that they should respond only to 'electors' within that district. Interestingly the situation of Gibraltar [q.v para 4.5 page 8 of the accompanying introductory notes] being tied to the SW of England touches on this topic.

Out of this springs two lines of thought.

1. That it might be useful to link **British Nationals** resident in various States of Europe to MEP constituencies within the UK.. It would be no bad thing if such MEPs represented the expatriate British Citizens variously in other parts of the EU.

2. That particular MEPs should take on board responsibilities for certain areas of the operation of EU laws, to become specially knowledgeable in those matters

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

Petitions –

1. The EU Parliamentary petition process appears to be a 'good thing' .

2, The European Citizens Advice service (previously The Signpost Service) procedure is excellent – I have used it myself.

3. Concerning the UK Government petitions service. It is conceivable that even petitions signed by only a few people could be important. The number thresholds are not necessarily the right way of looking at the value of a petition ...

4. The Euro Citizen's Initiative faces a similar hurdle to the above in requiring a million signatories.

(see answer to Question 5)

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Communication with the electorate.

This is the huge 'elephant in the room' for the British Government and the constituency politicians.

It effectively kills interest in politics amongst British Citizens abroad to tell the British Citizen abroad that 'you can't vote after 15 years'.

The Government and the political Parties need to express an interest in the Citizen in the wider EU.

How to do that?

a. Give British MEPs a wider remit to represent Britons in Europe?

b. Senior politicians should visit areas where British Citizens are reasonably concentrated, to meet and discuss.

For the interest of the influence of Britain in Europe, it is essential that the Britons in Europe are respected by the British Political class.

Unfortunately among the electorate the attitude of British politicians (perhaps incorrectly) is perceived as

'I want you to vote for me'

rather than

'I want to help you live a worthwhile life'.

The British Government and the British politician need to demonstrate without any doubt that they want to help the British Citizen abroad in the wider EU.

The Freedom to Vote and being Politically Represented is so fundamental, that only by giving this Right to all British Citizens for life can Britain claim to have embraced truly the spirit of Democracy. It seems that the EU desires this.

END.

I hereby confirm that I agree with what is written above.
Melvyn Anthony

**Formal response to the Call for Evidence
on the Government's Review of the Balance of Competences
between the United Kingdom and the European Union**

This response has been prepared on behalf of senior electoral administrators at Birmingham City Council as well as the Regional and Local Returning Officer who were all asked to provide their views on the issues raised in the Cabinet Office's review. These views are therefore not necessarily the views of Birmingham City Council.

Generally speaking we are happy with the balance of competences between the UK and the EU in terms of electoral administration save for the comments below.

1. Close of Poll

1.1 The prohibition on the publication of results until 10pm on the Sunday UK time causes practical issues. In the West Midlands, some Local Returning Officers (LROs) were ready to announce their results earlier than 10pm but had to wait until the 10pm watershed before sharing these with any local observers. Those who finished early had to keep counting staff in place, at a cost, until the local results could be shared to ensure that no recount was required. The reality is that it can be very difficult to give an accurate estimate as to how long a count will take which makes planning (particularly around start times) challenging.

1.2 A further issue in general terms is that the 10.00pm deadline creates an expectation that regional results across the country will be ready to be announced very shortly afterwards. The fact that local results cannot be announced until 10.00pm means the media is left with very little to comment on for some time. It also means parties, candidates and the public must wait for any indications of results. This can reflect badly on LROs (and therefore the process) even though it is something over which LROs have no discretion.

1.3 We accept the principle that results and exit polls should not be published much earlier than the Sunday evening, as that could conceivably have an impact on voting elsewhere in Europe. As such we have no desire to count sooner than Sunday for this very reason. However, we think there should be a little more flexibility to announce local results (or totals) earlier than the exact point at which polling closes in the last state. Most LROs do "mini counts" based on local wards or divisions so even if we could not share a local result, it should be possible at the very least to share local totals at a ward level.

2. Information Exchange

2.1 The information exchange required considerable effort and expense, but the benefits are not proportionate to that. Of around 20,000 forms issued to electors, around a quarter were returned completed correctly. Further, it was not always possible to meet the deadline set by other EU Member States to inform them that an elector had opted to vote in the UK rather than there, with unknown consequences for the administration of the poll within those states.

2.2 Overall, we think the likelihood of people crossing borders to vote twice is slim in the UK context. We would therefore prefer to remove the requirement on voters to fill out declaration forms opting where they wish to vote, and replace that with the system which operates at local elections in the UK where people with multiple registered addresses can choose where to vote without completing any forms. If they do vote twice there are penalties although it is accepted that this can be difficult to prove.

2.3 The Cabinet Office's guidance and support was of a good standard in helping support EROs through the process.

2.4 The West Midlands had no non-British EU candidates, and so we had no experience of that side of the information exchange process at the polls. However, we have concern that even this process cannot fully prevent an ineligible candidate from appearing on a ballot paper, who would then become disqualified if elected. However it is hard to see an alternative to the way the UK has implemented the directive to ensure absolutely that this doesn't happen.

3. Regional Administration

3.1 The regional nature of European Parliamentary elections makes it hard to make them feel like 'one election'. Issues including the issue of Notice of Election at different times by RROs, and how regional and local agents were appointed caused some confusion for political parties and LROs alike.

3.2 As an example the rules required that the Notice of Election be published by *no later than 14 April*. However there is nothing in the rules that prevented the notice being published earlier which is what were did in the West Midlands (it was published a week early to take into account potential difficulties caused by Easter falling in the middle of the nomination period). That did cause some confusion as not all stakeholders understood that the "last date for publication" is exactly that and thought that this date i.e. the 14th, was the date that it had to be published.

3.3 Also RROs took differing approaches to the issue of directions and guidance and how these could be used.

3.4 That said, in general the administration of the polls worked well and the RRO/LRO relationship is now well-established and very helpful to the effective running of the polls.

3.5 As an ERO, we do not recall having being asked to verify signatories to a European Citizens' Initiative petition.

4. Day of Poll

4.1 We have no strong objections on administrative grounds to a common voting day (possibly on a Sunday) but this would need further consultation with all stakeholders. One advantage might be that schools could be used more readily as polling stations as they will be closed. Currently a common complaint is that the closure of schools disrupts children's education.

4.2 However questions arise as to whether voting on a Sunday would be acceptable to all including political parties and electors. There would also be an issue around the ability to combine certain polls which could have cost consequences as well as recruitment issues for LROs.

4.3 There is also the issue whether have different polls on different days (depending on the type of the poll) could cause confusion to electors.

Head of Electoral Services
27 June 2014

Dr Michael Blackmoore

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

The EU administration (unelected) is far too powerful and is subject to too many vested interests. It seems to exist more for the benefit of its employees than the member states. How an organisation that has not had its accounts passed by its appointed auditors for many years is allowed to continue to “trade” escapes me.

It is unacceptable that the UK Diaspora of many millions is substantially denied the opportunity to vote for MEPs and has no representation in the EU Parliament.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

Clean the Aegean Stables

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

Very limited in the case of UK expatriates

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

The extent of “EU wide democratic engagement” is so limited as to be almost imperceptible.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Reduce the power of commissioners, control the costs of the EU administration, block any increase in EU budgets until the accounts are passed by the auditor, reduce the overall EU budget by at least 5% a year for the next 10 years.

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

Representation at the European Parliament for British Citizens.

It is not only reasonable but essential to true democracy for all British Nationals to be represented by MEPs in who's election they have fully participated. The present situation whereby those UK Nationals who have lived outside the UK for more than 15 years (which does not apply to any other EU citizens) are disenfranchised is unacceptable.

The EU law states...

See pp 4.16 page 12 of the introductory notes.

4.16 EU citizens can **choose** whether to vote in their Member State of citizenship or of residence.

The retention of the present 15 year limit on enfranchisement for UK nationals living abroad prevents them choosing where to vote for an MEP and is unconstitutional. It also goes directly against article 4.1 of Directive 93/109/EC and the introductory paragraph 10 (page 2) of the Directive which promises Citizens the freedom to the Member State in which to take part in European elections.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

Representation at the Westminster Parliament for British Citizens abroad in the EU. The same electoral laws should apply uniformly across the Union. , para.. 4.30 of the accompanying notes raises this issue and it needs to be addressed. This ruling does not seem to be consistent with natural justice nor consistent with many of the facts. For many British Citizens who live in the EU, their income is derived from the UK, many still pay tax to the UK, they have strong cultural, family and social connections with the UK and many still own property in the UK. They are subject to treaties negotiated without their involvement between the UK and their host country in the EU. The British Government by ignoring their right to continued representation has created disaffection and contempt for the political system and its denizens which is much to the detriment of the democratic process and the legitimacy of the UK Government.

MEP representation for British Citizens in Switzerland and Norway.

Since these States have no MEPs, the British Citizens there (after 15 years abroad) have no possibility of representation by anyone at all!

Representation at the National level in the EU State where a British Citizen is living.

The fundamental principle of Democracy is that the citizen should have a voice with whichever law making authority affects the citizen. The EU laws say that one can vote only at local level but no more.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The Responsibilities of MEPs.

MEPs are elected for 'constituencies' and become members of a list. Their legitimacy and effectiveness as true representatives of the interests of their Nationals (i.e. UK Nationals resident in other EU countries) might be improved by the following:

- 1. Link British Nationals resident in various EU states to MEP constituencies within the UK.**
- 2. Particular MEPs should take on board responsibilities for certain areas of the operation of EU laws which particularly affect UK Nationals (whether or not resident in UK or other EU countries), to become especially knowledgeable in those matters.**

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Communication with the electorate.

The links between MEPs and their electorate generally is presently very weak, if indeed it exists at all in any practical sense.

This is very detrimental to maintaining any interest in EU politics amongst British Citizens abroad especially since they are unable even to vote after 15 years living outside the UK.

These weaknesses could be eliminated if British MEPs had a wider remit to represent Britons in Europe. It is regrettable that UK expatriates in Europe are largely ignored by the British Political class.

The British Government and British politicians in general need to accept that their role is to help the British Citizen abroad in the wider EU and in so doing they may help to reverse the disastrous decline in respect for politicians which has occurred over the past few years to the great detriment of the effectiveness and legitimacy of Government thorough the EU.

Brian Cave

Response to the Government's consultation paper on VOTING.

Author Brian Cave (Pensioners Debout!) [REDACTED]
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'Pensioners Debout!' is an internet site to concern British Pensioners resident in France [primarily] and draws attention to the problems which we face. In the last few years it has concentrated on the issue of political representation linking into the campaign www.votes-for-expat-brits.com

Below is the response to your questionnaire. It could not be fitted in to the format provided by yourselves. Apologies for that.

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

Representation at the European Parliament for British Citizens.

It is highly desirable that British Nationals are able to be represented by English speaking MEPs who thereby thoroughly understand the background of the British Citizen

At the moment any such representation is available ONLY if the citizen has resided 'abroad' for less than 15 years. This time limit must be removed to enable this vital democratic link.

The EU law states...

See pp 4.16 page 12 of the introductory notes.

4.16 EU citizens can **choose** whether to vote in their Member State of citizenship or of residence.

IT IS UNDEMOCRATIC to retain the 15 year limit for it is in opposition to the spirit of European law, preventing citizens choosing where to vote for an MEP.

The 15 year limit violates the spirit of article 4.1 of Directive 93/109/EC.

It also is contrary to the spirit of the introductory paragraph 10 (page 2) of the Directive which promises Citizens the freedom to choose the Member State in which to take part in European elections.

The present situation is that by being retained as a ‘constituent’ for a British Constituency it enables one to be represented by the associated BRITISH MEP – however....

It would be desirable if British MEPs had the responsibility at all times and for life to represent British Citizens residing in other States of the EU . (see answers to Question 3 & 5 below)

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

Representation at the Westminster Parliament for British Citizens abroad in the EU.
This at first sight appears unrelated to the European context but it most surely is! The same electoral rules should apply uniformly across the Union.

para.. 4.30 of the accompanying notes raises this issue and it needs to be addressed. I quote in relation to the Harry Shindler case “the ECtHR who ruled that there had been no violation of Article 3 of Protocol 1 by the UK and that the UK had legitimately confined the parliamentary franchise to those citizens who had a close connection to the UK and who would therefore be most directly affected by its laws..”

Those British Citizens who live in the wider EU (I write especially, but not exclusively, for the pensioners) know this ruling to be fallacious. For most, all their income is derived from the UK – many must pay tax to the UK - their cultural and family and social connections are with the UK – many own property in the UK – nearly all listen to British radio and TV and are as aware as anyone resident in the UK of the political situation in the UK – treaties are formed between the UK and their resident State and the EU which affect them most deeply. Laws are made at Westminster which affect them profoundly. Their concerns are so wide that it would be democratically intuitive to consider the institution of an MP or MPs to represent them.

Although the British Citizen abroad is by his/her very existence a good or bad ambassador for Britain and most are proud of their British heritage, the British Government by its blindness to their value has made many angry and thoroughly disillusioned with all politicians. They are thus turned off voting or having an interest in political activity. It is dangerously sad, for they then report ill of Britain with their European friends. The French have such a different view of their citizens abroad.

Citizens (especially the younger ones) move around Europe and yet are linked to their Nation State. The idea that they should at each move change their citizenship is an obvious nonsense. Their Right of free movement is curtailed by in effect losing all Political Representation.

MEP representation for British Citizens in Switzerland and Norway.

Since these States have no MEPs, the British Citizens there (after 15 years abroad) have no possibility of representation by anyone at all!

Representation at the National level in the EU State where a British Citizen is living.

The fundamental principle of Democracy is that the citizen should have a voice with whichever law making authority affects the citizen. The EU laws say that one can vote (have a voice and dialogue!) at the very local level but no more. There is a cry in Europe N.B. The Euro- Citizen's Initiative 'LET ME VOTE' . It concerns this very point.

Representation at the local commune level. This (in France and I believe in Spain) is working supremely well. The local communes in France welcome the input of the British and other nationals.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The Responsibilities of MEPs. MEPs are elected for 'constituencies' and become members of a list. That might give them an impression that they should respond only to 'electors' within that district. Interestingly the situation of Gibraltar [q.v para 4.5 page 8 of the accompanying introductory notes] being tied to the SW of England touches on this topic.

Out of this springs two lines of thought.

1. That it might be useful to link **British Nationals** resident in various States of Europe to **MEP constituencies within the UK**. It would be no bad thing if such MEPs represented the expatriate British Citizens variously in other parts of the EU.
2. That particular MEPs should take on board responsibilities for certain areas of the operation of EU laws, to become specially knowledgeable in those matters

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

Petitions –

1. The EU Parliamentary petition process appears to be a ‘good thing’.
- 2, The European Citizens Advice service (previously The Signpost Service) procedure is excellent – I have used it myself.
3. Concerning the UK Government petitions service. It is conceivable that even petitions signed by only a few people could be important. The number thresholds are not necessarily the right way of looking at the value of a petition ...
4. The Euro Citizen’s Initiative faces a similar hurdle to the above in requiring a million signatories.

(see answer to Question 5)

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Communication with the electorate.

This is the huge ‘elephant in the room’ for the British Government and the constituency politicians.

It effectively kills interest in politics amongst British Citizens abroad to tell the British Citizen abroad that ‘you can’t vote after 15 years’.

The Government and the political Parties need to express an interest in the Citizen in the wider EU.

How to do that?

- a. Give British MEPs a wider remit to represent Britons in Europe?
- b. Senior politicians should visit areas where British Citizens are reasonably concentrated, to meet and discuss.

For the interest of the influence of Britain in Europe, it is essential that the Britons in Europe are respected by the British Political class.

Unfortunately among the electorate the attitude of British politicians (perhaps incorrectly) is perceived as

‘I want you to vote for me’

rather than

‘I want to help you live a worthwhile life’.

The British Government and the British politician need to demonstrate without any doubt that they want to help the British Citizen abroad in the wider EU.

The Freedom to Vote and being Politically Represented is so fundamental, that only by giving this Right to all British Citizens for life can Britain claim to have embraced truly the spirit of Democracy.

It seems that the EU desires this.

END.

The above was circulated to about 200 correspondents to 'Pensioners Debout, so it is possible that others have used some of this material in responding to you.

I trust this presentation is acceptable.

Yours truly,

Brian Cave

Dr Carlo Casini

At the conclusion of the first realisation of the new participatory democratic initiative introduced by the EU in Art.11 of the Treaty of Lisbon, described as a 'European Citizens' Initiative' (ECI), there is a duty to express an evaluation on the manner in which on 28 May, 2014, the European Commission chose to halt any further progress on the initiative described as 'One of Us'.

This decision is seriously prejudicial to democratic principles, puts at risk any further attempts by citizens to use this new instrument, and distances further the citizens of Europe from the European Institutions.

In essence the Commission, whilst on the verge of being replaced as a result of the elections of May 25, declined to respond to the fundamental question proposed by over 2.000.000 of its citizens (1.721.626 was the final number as certified by the various countries), made no attempt to investigate the accuracy of what had been denounced by the organising committee of the ECI in the hearing of 9-10 April 2014, and chose to substitute the political assessment of an executive organ for the democratic assessment of Parliament.

Such a conclusion is not acceptable and it is necessary to find a remedy – for the good of Europe itself – through a strong and widely based response from a robust background of scientists, lawyers and politicians.

In truth the response from the Commission to the ECI is non-existent because, notwithstanding the length of the report, all one reads is a self-congratulatory list of financing given to scientific research and help provided to various sectors worth of praise, none of which relates to the issues raised by the Citizens' Initiative itself.

At the same time the report fails to examine the critical points raised by the ECI and fails to take into consideration the fundamental demand relating to the need of European institutions to recognise the embryo as a human being, therefore one of us from the moment of conception.

The moment has come for an immense, serious, recorded debate in the European Parliament on this issue, to ensure that economic interests and ideologies do not encourage, indeed legitimise actions and ways of thinking which distort the concept of human dignity, the principles of equality, the rights of man, all of which the European Europe declares solemnly and formally that it wishes to uphold.

Christopher Chantrey

British Community Committee of France

The British Community Committee of France (BCC) is a non-partisan, not-for-profit organization founded in 1937 which represents British residents in France through the local and national organizations to which they belong, or from which they benefit.

The BCC strives to provide greater visibility and a united face for the British community in France as a whole, and investigates issues and problems in everyday life that may be encountered from time to time by British residents in France.

According to the Institute of Public Policy Research ("Global Brits", 2010) the British community in France is the 6th largest British expatriate community in the world by estimated number of British passports held, and by the same measure, in 2010 it was the largest British expatriate community in the world in a non-English-speaking country, just ahead of Spain.

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections?

One important role played by the EU is to exert influence on Member States where practices which come under national competence are out of line with EU policy as prescribed in general terms in the Treaties. This is why, for example, in its January 2014 Recommendation, the Commission called on the UK and other Member States to remove restrictions on the voting rights of UK nationals who live elsewhere in the EU. This policing of national implementation of Treaty rights is a valuable EU role and must be maintained.

As an example, a Member State may invoke national competence in the pursuit of an initiative which discriminates against certain nationals of that Member State. Clearly, guarding citizens against such discrimination can only be a EU prerogative. In support of this principle, the British Community Committee of France petitioned the European Parliament on 24 January 2014, calling upon it to debate and adopt the principle "that no Member State should discriminate against its own citizens on grounds of residence in another Member State".

The British Community Committee of France is opposed to any form of arbitrary or disproportionate limitation on British citizens' right to vote in UK parliamentary elections, in particular on grounds of place and/or duration of residence abroad.

The disenfranchisement by the UK of certain its own nationals from any referendum on continuing membership or otherwise of the EU, a matter which directly concerns the welfare and wellbeing of those citizens, is a further example. The British Community Committee of France therefore petitioned the European parliament on 7 March 2013 to recognize “that all citizens of the European Union residing in the European Union, but in a different Member State from that of their nationality, should have the right under European Union Law to vote in any referendum organized in the Member State of which they are nationals, concerning that Member State continuing or discontinuing its membership of the European Union or changing the terms of continuing membership, regardless of the period of residence of such citizens outside their Member State of origin, in view of the impact of the decision in question on their personal lives.”

Continuing cases of discrimination by a Member State against its own citizens could cause it to become desirable to strengthen the EU’s own powers to act against such discrimination.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face, and are they appropriate?

Non-national candidates and parties wishing to stand for election at European Parliamentary elections in their Member State of residence face linguistic and other difficulties, which render extremely unlikely the possibility of such candidates actually being adopted by a host-country political party and being elected.

The British Community Committee of France therefore believes that the UK should make it possible for a British citizen residing elsewhere in the EU to be a candidate in a special constituency of the UK to be created, which could be termed "Britons Abroad", and which would be a more logical constituency within which to include Gibraltar.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well?

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

The British Community Committee of France will be better able to form a view in answer to these questions when its petitions to the European Parliament referred to above have been followed by action on the part of the European Parliament.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Under the principle of subsidiarity, it should not be necessary to invoke EU powers to redress cases of discrimination against citizens of Member States. However, so long as such cases of discrimination are possible, the protection of EU citizens by the EU institutions remains a necessity.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

The electoral process for the European Parliament has been designed, so that the voter has no sense of ownership of the individual elected as the MEP. You cannot select an individual candidate on the basis of their personal merit. You have no choice but to vote for a political party. Not only do you then have no choice over the individual representing you, but those elected as MEPs represent a vast region with millions of constituents and officially there is no-one designated specifically to represent you and your locality. The role and responsibilities of the local Westminster MP to their constituents are clear and the MPs are normally relatively well known locally and easily contactable regarding help with local issues. However relatively few people would know which one of the raft of MEPs elected for their region to contact and what help, if any, they could expect to receive. Once elected for their five year term the MEPs appear to the voter to enjoy power and generous perks without any meaningful accountability to either the electorate or to their political party in the UK. The MEPs seem free to go native and follow their own inclinations rather than promote the interests of their constituents. It is curious that while the political parties exercise strict control over the Westminster MPs through the whips to ensure they support the party line, there does not appear to be comparable control exercised over MEPs in Brussels. It is currently a matter of debate, whether it is the Westminster Parliament or the unelected EU Commission and the unaccountable European Parliament, which have the most power to affect the daily lives of the UK population. Brussels is constantly extending its competence and with the powers of veto of individual Member States are being whittled away in favour of majority. Westminster will soon cease to be a sovereign Parliament and the MPs will be reduced to the role of Parish councillors. HMG could enhance the voters sense of ownership of their MEPs by introducing the open party list system, which would enable voter to select individual candidates on their merits.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

There was general agreement at the Cabinet Office roundtable last week that a major impediment to participation in the European Elections was the voters lack of knowledge of the respective powers and competences of the Westminster and European Parliaments to influence their daily lives. It has not been in the interests of the Westminster politicians to have the powers of Brussels clearly defined for the voter, as the voter would realise the severe limits of the powers of national politicians to defend their interests and the growing need for them to enlist the assistance of the

MEPs / decisionmakers in Brussels. If on the completion of the Competence Review, its conclusions were to be converted into a simple guide to the relative powers of the European and Westminster Parliaments for the benefit of the voters, this would do more to encourage democratic engagement than most other measures.

Evidence received from Graham Shields – Chief Electoral Officer – Electoral Office for Northern Ireland

Evidence received via email to the Cabinet Office - 24 June 2014 16:44

STV

The use of the STV system in Northern Ireland elections is long established and widely accepted both by the political community and the wider public. In addition to the European Parliamentary election, it is used for elections to the NI Assembly and Local Councils.

For the purposes of the European Parliamentary election, Northern Ireland is treated as a single region and STV ensures that the result is proportionally representative of the community as a whole. There are no real concerns about a lack of constituency links with regard to our MEPs; Northern Ireland is geographically small and the MEPs are accepted as representing the country as a whole.

We have experienced problems in respect of combined elections in which the STV system is used at both polls. It is apparent that some voters become confused and think that both ballot papers refer to the same election, resulting in significant numbers of ballot papers being spoiled or left incomplete. (Approx 10,000 at this years' elections.) The only other perceived difficulty associated with STV is the length of the count which this year extended into a second day. This created frustration and annoyance amongst some politicians, however the reality is that STV elections will always be associated with lengthy manual counts.

COMMON POLLING DAY ACROSS EUROPE

In principal I think this is a very sensible idea, however in practice it may present problems in Northern Ireland. I am assuming that the most likely day of the week for a common poll would be Sunday; this would be unacceptable to a large section of the population in Northern Ireland who would not vote because of religious observance reasons. If the poll was held on a Sunday, turnout would inevitably decline and the result of the election would be skewed in favour of nationalist/republican parties.

It is also worth mentioning that for reasons of religious observance there is no counting on a Sunday in Northern Ireland. The fact that the count does not commence until Monday, coupled with the long duration of the STV count process, means that Northern Ireland electors are generally the last in the UK to know who their new MEPs will be.

INFORMATION EXCHANGE

The process of informing Member States about information on their nationals who were registered in Northern Ireland worked well. No significant issues were identified.

Strangely, no information was received from any Member State in respect of any Northern Irish citizens. Clearly, this is an area that requires further investigation.

No candidates from other Member States stood for election in Northern Ireland.

OTHER ISSUES

Candidate's Deposit – I am aware that at least one of the minor parties in Northern Ireland struggled to find the money to fund their candidate's deposit. Whilst I can appreciate the need to deter frivolous candidates, I believe that the size of the deposit could be reduced to, say, £1000 without substantially compromising on this issue.

Home Address on Ballot Paper – As discussed, we had a candidate who was subject to racial hate crime and was minded to withdraw her candidacy when she learned that her home address would have to appear on the ballot paper. The problem was resolved by re-submitting her nomination papers with an address for another property she owned. This need for this requirement should be removed.

Call for Evidence – Balance of Competences Voting Review

Thank you for your request for my views as Regional Returning Officer for the North West and Electoral Registration Officer and Local Returning Officer for Manchester on the Cabinet Office Call for Evidence. I will comment specifically on the division of responsibilities for the administration of electoral registration and voting. I note that some of the issues I wish to highlight originate from UK legislation and may therefore fall outside of the scope of the review; to this end I am copying my response to the Elections and Parliament Division who may be able to consider such matters within the context of their review of the 22 May polls.

Firstly, with regard to the overall framework for elections to the European Parliament, I consider the party list system to be the most appropriate mechanism both to elect MEPs, and retain a 'local link' through regional representation. The feedback I have received from candidates and agents indicates that they consider the nomination process for European Parliamentary Elections to be more straightforward for both political parties and individual candidates than perhaps at other elections. The two political parties who had EU national candidates and were required to obtain a confirmation from their member received accreditation in a timely fashion, though which is most likely due to the efficient way in which the process was administered by the Cabinet Office and respective member states. Nonetheless, this additional requirement, which does not apply to UK nationals standing in their home country, does complicate the process further and there may be circumstances where it could cause significant practical difficulties for the candidate and for the RRO.

With regard to participation, you will be aware that the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 sets out the requirement for European citizens to complete and submit a declaration whereby they wish to cast their vote in their Member State of residence rather than their Member State of origin. The decision as to whether to issue UC1 forms automatically to registered EU citizens is a matter for each ERO and there is no legal requirement to do so, consequently there was no consistent approach across the UK and even within regions. As ERO for Manchester, where over 20,000 EU citizens are registered to vote, I took the decision to send forms to each citizen at a cost to Manchester City Council.

From an administrative perspective, UC1 forms are inevitably returned close to the registration deadline and this places an additional administrative burden on electoral teams; the early issue of postal votes further complicated this. However, of most concern to me as a Local Returning Officer was the number of EU citizens who did not return their UC1 form and attended polling stations expecting to vote in the European Parliamentary Elections, who consider they have in effect been disenfranchised as

they state that they were not aware of the UC1 requirement. As only a small minority of EU citizens are likely to return to their home country to vote, or have made arrangements for absent voting, it is my view that the UK government and Electoral Commission should review the operation of this specific provision with a view to enabling EU citizens to opt out, rather than opt in, of voting in the UK. The introduction of IER will also provide increased security around registration for elections and should therefore further negate the need for UC1 forms as an integrity mechanism.

Similarly, whilst opportunities for increased participation in elections should be welcomed, a more cohesive and structured approach to arrangements for out of country voting should be considered. At present, there is no requirement for Member States to inform LROs of such arrangements; early provision of such details would provide the opportunity for a more integrated, elector focused approach.

I note from the Call for Evidence that the government does not propose to change the law to permit EU citizens to vote in UK parliamentary elections, which is in line with other Member States. Quite clearly, this is a matter for the UK parliament. Administratively however, and following on from the UC1 requirement, further consideration should be given to how we communicate matters relating to franchise to electors – such issues arise at every combined poll which causes frustration in polling stations and generates a large number of complaints after the poll. A consistent specific message on single franchise poll cards at combined polls explaining why the elector is not eligible to vote in other polls may go some way to mitigate such difficulties.

The quality and consistency of the exchange of information between Member States have yet to be resolved satisfactorily and North West Electoral Registration Officers have advised that they consider this process to be of limited value. I recognise that Cabinet Office have been seeking to negotiate changes to the information exchange process, however, further consideration should be given to the value of this activity.

I trust you find these observations helpful but please contact [REDACTED] [REDACTED] should you require any further information.

Yours sincerely,

Regional Returning Officer for the North West

Christian Concern

QUESTION ONE: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

N/A

QUESTION TWO: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

N/A

QUESTION THREE: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The following is submitted in light of our involvement in the 'One of Us' European Citizens' Initiative.

Summary:

- The ECI mechanism was presented as providing a vehicle for meaningful democratic participation.
- Thus far it has fallen short of this promise and potential. This has damaged the credibility of the instrument. It has also exposed the question of how far EU bodies and national governments (including HMG) are really prepared to open EU law-making to more direct democratic influence.
- Without urgent change in both its operation and the attitude of governing authorities towards it, the ECI device risks being dismissed as an ineffective option by many of those who would be best placed to facilitate and encourage its use.

Background

- Christian Concern led the coordination and promotion of the 'One of Us' ECI in the UK.
- The One of Us campaign was the second ECI to meet the requirements to merit a response from the European Commission (1 million signatures including a minimum threshold achieved in at least 7 member states).
- One of Us has achieved the highest number of verified signatures of any ECI so far (over 1.7 million validated).

Three areas of challenge are identified below. Of these, the most serious is the scope for political bias in the role of the European Commission, followed by the politically-motivated behaviour of national governments, in this case HMG.

The technical operation and infrastructure of the ECI mechanism

- In our experience, the infrastructure and execution of the ECI mechanism has significantly hindered its operating effectiveness and created an unnecessary hurdle. A non-exhaustive list of examples follows.
- One of Us was hindered by delays in the availability of the online collection system.
- Different member states required different information to be collected from signatories. This added to the complexity of communicating the initiative and collecting the correct information. Simplicity significantly aids participation in campaigning initiatives.
- There was even greater complexity in collecting and verifying information from citizens of one member state who resided in a different member state. This added to the bureaucratic overhead on both organisers and national governments responsible for verification. It also acted as a barrier to sympathetic citizens being able to sign.
- Neither the paper forms nor the online collection system were end-user-friendly. Neither effectively encouraged participation. Instead both entities were designed with the concerns of bureaucracy uppermost. The paper forms and the online system did not encourage or facilitate appropriate or attractive communication of the benefits and purpose of the One of Us initiative – something that is vital in campaigning work and significantly adds to participation.
- There was confusion about the apparently contradictory requirements for data preservation of (i) data protection regulations and (ii) the verification procedure.
- There was complication in transmitting data for verification to the UK authorities as a result of an apparent mismatch between EU and UK expectations and technical capabilities.
- We would concur with many of the observations and conclusions of the ‘An ECI that Works’ report, as regards improvement to the technical operation.
- Collection of 1 million signatures including meeting the minimum threshold in at least 7 member states requires extensive communication and co-ordination and hence resource investment by organisers.
- The additional hurdles unnecessarily created by the technical implementation of the ECI mechanism significantly increase the investment required and call into question whether it is justified.

The political posturing of the European Commission

- The One of Us ECI was afforded a hearing organised at the European Parliament and a response by the European Commission.
- However, the European Commission announced on the last day of the Barroso Commission that in spite of the success of the One of Us ECI, no legal proposals would be forthcoming.
- Such an outworking highlights the significant power of the Commission in the process. The Commission can block successful ECIs preventing them from ever reaching the European Parliament. The unelected Commission can therefore exert significant power in what is supposed to be a direct opportunity for democratic participation.
- The role of the Commission should be restricted to declaring whether the ECI fits the admissibility criteria and falls within EU competence – and then to preparing suitable legislative proposals for the Parliament to consider. There should be no effective power of veto by the European Commission.
- Proposed ECIs are already subject to testing against admissibility criteria at the outset (including whether the ECI's call falls within EU competence). Evidence suggests that the test is already rigorously applied (so far, only around 3 in 5 proposed ECIs have cleared this first hurdle).
- The fact that ECIs may effectively be vetoed by the Commission even after collecting the requisite number of signatories introduces additional uncertainty into the process, making it harder to motivate would-be supporters to add their signatures and reducing the willingness of campaigners to commit the significant resources that are required to generate success. The consequence is reduced take-up of the mechanism.
- If the Commission does not only consider technical compatibility but is free to make broader, political judgments, it is fair to assume that ECIs stand a greater chance of success at this hurdle, if the Commission is already politically sympathetic to the cause. However, this observation would encourage campaigners to focus on lobbying the Commission. Such an outcome would be detrimental to the 'direct democracy' intention of the ECI since it would motivate advocacy organisations to divert scarce resource away from citizens and towards lobbying the Commission – and perhaps to abandon the ECI altogether since the Commission is already able to propose legislation directly where it is sympathetic to the need.
- Once an ECI is successful, the role of the Commission should be restricted to framing appropriate legislative proposals for consideration by the European Parliament – and perhaps providing the Parliament with transparent and objective information on the pros and cons of such legislation.
- So far, there have been fewer than 5 successful ECIs so the additional burden on the Parliament in considering the resulting proposals would be manageable and have a very positive effect in encouraging direct democracy.

The behaviour of the HM Government

- Media reporting indicates that the British Government issued a briefing note before the Commission reached its decision. The document classified 'Official Sensitive' argued against the One of Us proposals.
- Whilst national governments may want to provide analysis and an opinion on proposed legislation, doing so before legislative proposals have been presented to the Parliament, damages confidence in the objectivity and the transparency of the process. Since confidence in the openness and directness of the ECI vehicle is vital for encouraging democratic participation in it, such premature influencing is counter-productive to the ECI's aims.
- Furthermore, any input from national governments at the subsequent stage (i.e. once proposals have come before the Parliament) should be open, transparent and accessible to the citizens who are being encouraged to participate in direct democracy. The use of confidential or 'official sensitive' channels will be counter-productive to the ECI's overall aims.

Conclusion

- Competence for the overall operation of the ECI mechanism should remain with the European Union but there should be reform of the relative roles of different organs of the Union. In particular, the role of first judgment on the political merits of legislative proposals should lie entirely with the European Parliament and be shifted from the Commission.
- Competence for verification of signatures should remain with national governments but in the interests of uniformity and efficiency for campaigners and those wishing to support ECIs, competence should be extended to the EU for specification of information required, the mechanism for adding support and the process of verification (especially in the area of cross-boundary verification where a citizen of one member state lives in another member state).

QUESTION FOUR: Are there any future opportunities or challenges for the UK which result from EU wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

N/A

QUESTION FIVE: Are there any general points you would like to make which are not captured by the above?

N/A

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

Broadly the division of responsibilities as they stand appear to be working well.

It is correct that the EU only allows countries to use a proportional system. Majoritarian systems would give Brits more sway than other EU countries as small swings change more seats in elections under such systems.

Additionally, it is correct that an institution such as the European Parliament, which runs on consensus and scrutiny should reflect the broad swathe of the British public.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

There are several challenges for political parties and candidates, in particular, from European Parliamentary elections in the UK.

Polls suggest that only around 7-10% of the public can name their MEP. Visibility of candidates and European issues is a huge problem in MEP elections.

There is a large academic literature demonstrating that European Parliament elections tend to be treated as 'second order' elections by voters, leading them to use them to comment on national politics rather than on European politics or policy.

The Electoral Reform Society believes that a candidate-centred proportional system should be introduced for European Parliament elections. We prefer the Single Transferable Vote system used in Ireland, Malta and Northern Ireland, but open-list systems used elsewhere in Europe would be a vast improvement.

An analysis by Simon Hix and Sara Hagemann in 2009 found that countries that used open-list systems were 20% more likely to be contacted by candidates or parties than citizens in member states who used closed-list systems. They were 15% more likely to say that they felt well informed about the elections, and they were 10% more likely to turn out.¹ Hix and Hagemann also find that moderately sized districts aid these attributes, with larger districts being susceptible to domination by a small number of

¹ Could Changing the Electoral Rules Fix European Parliament Elections by Simon Hix and Sara Hagemann (2009)

nationally famous candidates. As such they recommend districts of between 4-10 seats. As it so happens, this covers every UK constituency except Northern Ireland and North East England (both 3 seats), making the UK perfectly suited for the adoption of such a system.

The introduction of an open-list or STV system would change the nature of European Parliament elections. Parties would need to promote individual candidates in order to garner votes, giving voters a clearer idea of who their representatives are and informing them, in the process, better, driving up interest and turnout. This could create European Parliamentary election campaigns which are more interesting, more vibrant and closer to the issues that are at hand.

Another issue is that parties tend to recruit candidates who are, on the most part highly pro-European, much more so than the median voter in the country. When they do not, candidates tend to be much more anti-European.

A candidate-centred system would allow voters a more sophisticated appraisal of the EU views of candidates, but parties also need to select candidates who are more representative on this scale. We also call on parties to continue their good work on increasing gender representation. More on this in our report Close the Gap which is also attached.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The European Citizens Initiative so far appears to have failed to live up to its name.

At the time of our writing of Close the Gap we found that there were “only seven open initiatives and only two initiatives have reached the threshold necessary to initiate the legislative process”.²

The process to create a ECI is bureaucratic, and lengthy (the ECI website claims it could take up to 21 months). It also requires transnational organisation as ECIs must pass thresholds in seven separate countries. This places ECIs far beyond the means of European Citizens, and, in truth makes them into a tool of well-heeled transnational campaigning groups and NGOs.

² Data taken from ECI website at <http://ec.europa.eu/citizens-initiative/public/welcome>

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

We argued in Close the Gap that empowering national parliaments would help to reduce some of the democratic deficit between citizens and the EU as citizens view their MP as the first port of call for democratic engagement. We argue that national parliaments should have increased powers to block EU legislation and a power to initiate it as well.

We also argue that the structure of EU scrutiny in the House of Commons should be changed to allow for superior scrutiny.

We also recommended that devolved institutions be allowed to have more of a say in negotiations with the EU.

Finally we recommend that parliament and the government pilot using participative democratic methods to help decide on salient European issues.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

David Forsyth

Thank you for the opportunity to comment. I do so as a UK National resident in France, another EU Country.

I note the recommendations that people in my position should be enabled to continue to vote after the current 15 year limit in elections within the UK.

Whilst that is a recommendation with which I agree, I believe that ideally such people should have a choice: either to vote in their original country of birth or to vote in their chosen country of residence, probably after a qualifying period of say 3 or 5 years. There is a link, not covered in your review, between where people pay taxes on their income, for which 6 months per year approximately is the distinguishing period, and being able to vote in national elections for Members of Parliament who influence how taxpayers' money is used. Current arrangements allow for voting in local and European elections but not national ones, yet the percentage of taxpayers' contributions for which local and European representatives is dwarfed by the percentage influenced by national representatives.

I hope you will find this view of some interest; it seems an obvious point not addressed in your review.

David Forsyth

Lizzie Gill

Please note my strongly held belief that ALL GB nationals have the right to choose members of the UK Government, no matter where they may live. Those who left the UK less than 15 years ago do not per se show more interest in UK affairs nor necessarily are they more closely affected by the policies of the government of the day. If expatriates no longer feel closely allied to the country of which they are nationals then they are unlikely to register to vote. However those of us who left the UK more than 15 years ago and are still actively interested in and affected by British Government decisions morally have equal rights. It would appear that current Government thinking is that all expatriates chose to emigrate with the intention of foregoing voting rights after 15 years. This is simplistic and certainly false as shown by the petitions already presented to you the current Government and by the monumental effort and courage shown by Harry Shindler at his advanced age. Do not forget that there are those of us sent abroad in compliance with company contracts and who are unable to return to the UK because of an inability to purchase a home there. The right to vote is unalienable and should be protected by the British Government, not undermined because of a foolish decision taken by the Government of Tony Blair. No national should be disenfranchised nor should Britain be made the laughing stock of Europe by its lack of action to repeal this law.

Please give my message the attention it deserves.

Lizzie Gill, France

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

The current division of responsibility between the EU and Member States is designed to ensure that EU citizens resident in another Member State than their home state are guaranteed the right to vote or stand as candidates in European Parliament elections in their country of residence. Each Member State may however decide who is eligible to vote in national elections AND whether its own citizens resident in another Member State are entitled to vote in national and European Parliament elections.

Since the UK imposes a time limit of fifteen years on the eligibility of overseas voters, this leads to the result that any EU citizen resident in the UK has the right to vote in the upcoming European elections in the UK, while UK citizens who have lived outside the UK for over fifteen years do not. These UK citizens thus do not benefit from the choice set out in Council Directive 93/109, Article 4(1) "Community voters shall exercise their right to vote either in the Member State of residence or in their home Member State." This is contrary to the spirit of recital 10 of the Directive that "the freedom of citizens of the Union to choose the Member State in which to take part in European elections must be respected". It also leads to the absurd result that a UK citizen living for over 15 years overseas may only be represented politically at local and European level by a local politician or MEP in their country of residence but have no national political representation anywhere in the EU, and, crucially in the case of many overseas voters, no representation by a British, English-speaking representative anywhere in the EU. This contrasts with the position of an EU citizen resident in the UK who, if a citizen of one of the EU Member States which do not limit their citizens' voting rights, will have national political representation in their home state plus local representation in their country of residence plus the choice whether to be represented in European Parliament by an MEP of their home state or country of residence. In other words, the UK guarantees greater rights to EU citizens than it does to its own citizens resident in the EU but resident elsewhere in the EU for more than 15 years.

It is right that the UK guarantees such rights to EU citizens, and, on the other hand, that voting rights are a matter for national governments, but equally, UK law should not lead to the result that UK citizens are denied rights attaching to British or EU citizenship. This is of particular concern in relation to national elections.

Paragraphs 4.29 and 4.30 of the Call for Evidence set out a summary of the position on the disqualification from voting of “long-term overseas residents” (“overseas” is perhaps a little exaggerated where UK citizens merely live on the continent, over the Channel, or in Ireland).

First, a point of precision, it is not made clear in the summary, that rather than having introduced the 15 year limit, the 1985 legislation actually was the starting point for establishing what was considered to be a reasonable period for the purposes of limiting overseas voters rights: over the course of the last 29 years, overseas voters’ rights have been revised three times from five up to 20 and then down to 15.

As regards the low registration rights, these are often referred to as justification for the 15-year limit, as if the right to vote were a right that must be earned rather than being a fundamental right of citizenship. First, the current figures provided on registered overseas voters (around 20,000) do not provide a realistic view given that for the majority of such voters, it is not worthwhile registering at any other time than in the run-up to a general election. This is because such voters cannot vote in local elections in the UK, and have the option to vote in EU elections in their country of residence. It is thus clear that overseas voter registration peaks in a general election year, as the table set out on page 8 of the Standard Note on Overseas Voters SN/PC/05923 dated 14 October 2013 (please see attached document) demonstrates. In particular, in December 2010, there were 32,739 overseas voters registered. This is around the size of the smallest constituency in the UK, Orkney and Shetland.

Second, the constant changes to the limit referred to above also account for the low registration levels. Not only has this led to great confusion about who and who is not entitled to vote, but also demonstrates the arbitrary nature of the time limit. This fact alone, along with cumbersome registration and voting procedures, is enough to account for low registration rates. If I take my personal position, I left the UK in 1991 and voted in every general election from during the 15-year period that followed. This meant re-registering in Surbiton and Kingston-Upon-Thames (the constituency in which I was born and last lived in the UK) every year from 1991, as well as renewing my proxy every year. I also note that when I left the UK, the limit for overseas voters was 20 years, rather than 15, and thus it was my legitimate expectation that I would be able to vote until 2011 and thus in the last general election in 2010. However, when I attempted to register, my application was of course rejected because, in the meantime, my right to vote had been retroactively limited to 15 years.

The low levels of registered overseas voters compared to the number of British citizens living abroad (in the EU alone, the FCO estimates the figure to be around 1.5-2 million) is of serious concern in a modern democracy – overseas voters are the least represented group on the electoral register. This contrasts starkly with the situation in one of nearest neighbours, France, which has designated overseas constituencies for its overseas voters. The following French government link summarises how the French

elections played out in 2012 as regards overseas voters: <http://www.gouvernement.fr/gouvernement/francais-expatries-commentvoter-en-2012-0>. From this, it is clear that French overseas voters can decide whether they vote abroad or in France. They can decide whether to vote in their last constituency or in the dedicated overseas constituency covering the country in which they are resident. They can vote by all the classic means, i.e. proxy, post - and they can also vote electronically. And, what is the result? 1.1 million French overseas voters are registered. It seems very unlikely that this huge difference between the registration levels of French and British overseas voters can be explained away by large differences in the levels of voter apathy between the two countries!

The summary also notes that there are four other EU Member States with similar limits on overseas voting. It does not however explain the current position in one of those Member States, Ireland, our closest neighbour, and nor does it refer to the fact that the other 23 Member States, including our largest partners in the EU, France, Germany and Italy, provide for lifelong voting rights for their overseas voters, although Germany provides that its citizens must prove a connection to Germany after 25 years.

Paragraph 4.30 then refers to the current position, post the EC recommendation dated 29 January 2014, as well as the decision in the Shindler case.

European Commission Recommendation of 29 January 2014 (C (2014)391 Final) and the Opinion given by the European Economic and Social Committee (EESC) recognise the competence of national government to determine the qualification for voting in national elections. The Recommendation does, however, point out that in a small group of 5 of the 28 Member States of the EU – and that includes the UK, Denmark and Ireland, as well as Malta and Cyprus – the qualification is based on residence whereas for the majority of EU states qualification is based on nationality. It also points out that these 5 Member States may wish to show more flexibility to ensure that these citizens retain an indefinite right to vote, rather than stating categorically that they should allow them to retain this right as suggested in paragraph 4.30. The recommendation also notes that Ireland is already considering changes to its rules, which would leave the UK in an even smaller group.

The summary of the recommendation in Paragraph 4.30 is overly brief. The recommendation said that applying a time limit could lead to a situation where disenfranchised Union citizens are left without a vote anywhere and that thus instead of gaining additional rights through EU citizenship, the citizen's exercise of his/her right of free movement may lead to a loss of political participation (a point which I highlighted above).

The EC further stated that the right to vote is a basic civil right not a privilege and any general, automatic and indiscriminate departure from it risks undermining democracy and the presumption in a democratic state should be in favour of inclusion.

The EC also noted in the accompanying communication that while voting rights are of course a matter for national governments, “it must be taken into account that national policies which lead to the disenfranchising of citizens may be considered as limiting the enjoyment of rights attached to EU citizenship, such as the right to move and reside freely within the EU, a fundamental right of every EU citizen”. The EC in addition noted moreover that the compatibility of the UK limitation on overseas rights has not yet been established by the European Court of Justice. In fact, attempts were made in, for example, *The Queen (on the application of James Alistair Preston) v. Wandsworth Borough Council and the Secretary of State for Justice* to obtain a preliminary reference without success because the court failed to focus on the real issue raised by the case – whether or not the EU right of free movement had been infringed – and focused instead upon human rights issues.

In short, the EC in its recommendation considered and recommended that where a Member State limits the right to vote based on a residence condition, that Member State should allow citizens who make use of their right of free movement to demonstrate a continuing interest in the political life of the country of which they are nationals, for example by applying to remain registered on the electoral role.

Thus, while the EC does touch on a potential human rights law issue, at the heart of the EC’s recommendation is an EU law infringement – a restriction on the right of free movement, and, in turn, the potential loss of national citizenship rights through exercise of EU citizenship rights (which are envisaged to be additional, rather than substitutable for national citizenship rights). This means that the UK government’s position set out in paragraph 4.30 in response to the recommendation that it will keep the 15 year rule under review but is not minded to review it and that this is justified by the decision in the *Shindler* case is an inadequate response. The legal issue in the *Shindler* case is entirely distinct from that in the recommendation: the *Shindler* case was a case brought under the European Convention on Human Rights, while the recommendation raises an issue of EU law, and specifically, the infringement of one of the four fundamental freedoms under EU law.

Restrictions on the four fundamental freedoms under EU law can only be justified under exceptional circumstances. If a question concerning the 15 year rule were to come before the ECJ by preliminary reference, two issues would be considered: is there a restriction (here the EC has already come up with good arguments that there is) and if yes, is this restriction justified by exceptional circumstances. It would be particularly interesting to see what the outcome of such a preliminary question would be, were there to be an EU referendum in the UK and the 15 year applied in that context, thus preventing overseas UK voters resident in another EU Member State from voting in a referendum that would directly affect their future personal and professional status in their country of residence.

Arguably, the people likely to be most affected both personally and professionally by a referendum on EU membership are those British citizens exercising their right to freedom of movement by living and working in EU member states. The EC Recommendation suggests that the current 15 year limit by the UK can be interpreted as an impediment to the right of free movement within the EU. As many of the estimated 1.5-2 million British citizens resident in other EU countries will be unable to participate in such a referendum, the argument that this would result in a restriction on their right to free movement would be particularly strong, given the direct effect it might have on the personal status and livelihoods of overseas voters in the EU. Moreover, this argument, based on one of the EU's fundamental freedoms has yet to be tested by the European courts, as mentioned above. As also mentioned above, it has not been tested before the European Court of Human Rights, since the ECtHR does not have jurisdiction to apply EU law and thus *Shindler v. UK* is wholly irrelevant to the argument. And since the 15 year rule does not appear to fall within any permitted exception to the right of free movement, it cannot be justified under EU law rules relating to free movement.

In summary, the UK should review whether the time limit imposed in relation to the voting rights of overseas UK citizens is justifiable under EU law, specifically the right of free movement, as well as under the ECHR. It should also review the current arrangements for the registration of overseas voters and how they exercise those voting rights, given the very low numbers of British overseas citizens (who have not yet been abroad for 15 years) registered to vote in the UK.

More generally, the UK should consider whether maintaining the 15 year limit is in step with developments in our global connected world and whether it undermines the principles underpinning our democracy in the UK. The UK limit on citizens' right to electoral registration gives rise to what is a totally anachronistic situation where British citizens resident in the EEA for more than 15 years become completely disenfranchised as regards national elections. This effectively shuts them out of the democratic process not only at national but also at EU level, given that real power at EU level rests with the European Council, made up of national representatives for whom they cannot vote.

It also contradicts the notion of European citizenship and the principle of no taxation without representation. Many British citizens overseas continue to pay taxes or social security or draw pensions in the UK, and it is likely that their place of domicile will remain the UK (and thus that their estate will remain subject to a jurisdiction in the UK). Professionals such as lawyers work in other EU countries under their home qualifications (e.g. the Lawyers Establishment Directive allows lawyers to practise in any EU country under their home title), and continue to be members of their professional associations in the UK. Others with international careers may have a series of postings in different EU countries, making use of the benefits of the EU's single market and rights of free movement, and it is simply not possible, given their

professional commitments, to return to the UK every 15 years in order to regain their voting rights. For this, they are penalised – by using their right of free movement they will after 15 years lose a fundamental right attached to their British citizenship.

Finally, the 15 year rule is entirely arbitrary. British citizens who have been abroad for 15 years are considered to be “long-term overseas residents” and to have lost their connection to the UK (whether they are living in Brussels 2 hours away from London by Eurostar or living in Australia). Moreover, the time limit has changed from 5 to 20 to 15 years in the space of 29 years. Clearly, this is an arbitrary time limit, which takes no account of personal circumstances or real connections to the UK. A far better way to establish whether a British citizen living overseas actually retains a connection to the UK is that suggested by the EC in its recommendation referred to above – continuing to register to vote in the UK should be sufficient to establish that continuing connection.

Halarose

Evidence received via email to the Cabinet Office – 26 June 2014

A brief submission from Halarose, please. I hope it's not too late:

We feel that the Information Exchange does not work. We understand that 99% of inbound data (i.e. from the rest of EU to the UK) does not get forwarded to local authorities, and we understand that the outbound data flow has almost as little effect. In our view, member states should instead rely on appropriate sanctions to prevent EU electors from voting twice in the same European election.

Response to Consultation

“Voting, Democratic Engagement and the European Union: Reviewing the Balance of Competences”

Background

The Human Rights Consortium Scotland is a network of over 130 civil society organisations and individuals. The HRCS was established in January 2010 to address the gap in knowledge of human rights within NGOs and to build capacity on applying human rights principles and standards to the delivery of publicly funded services. The HRCS was borne out of an unmet need and in response to specific problems.

In October 2014, we were awarded a grant by the Thomas Paine Initiative to support the growth in advocates for human rights in Scotland. As part of that work we launched an Article 10 Campaign to:

- Convey succinctly that people have the human right to form an opinion and to receive and impart information – this challenges some perceptions of what human rights means. A repeated issue raised by the electorate in polling is the desire to have more information to form an opinion so messages on this human right will be heard more effectively than at other times.
- Be clear that there is a role for the HRCS in providing information to NGOs so that they, and their members, can form an opinion about human rights and can use their knowledge to help inform other about human rights during the referendum campaign.
- That we have the human right to freedom of expression but, as with all human rights, it must be exercised using the human rights principles of dignity and respect. We are particularly mindful of the possible need to heal division in Scottish society after the referendum Campaign and human rights should be regarded as a tool as well as a set of standards in that process.

However responding to consultations such as this is not part of our grant funded work and depends on voluntary commitment. We regret that there are so few resources to enable NGOs to pursue a distinctive human rights agenda within the public policy environment.

Context

- Voting trends in Scotland in the recent European Parliament Elections suggest that there is a difference in voting preferences between Scotland and elsewhere in the UK: UKIP won 27% of the votes in England but won only 10.4% of the vote in Scotland³.
- On the website 'What Scotland Thinks' Professor Richard Curtice points out that "...an analysis of opinion poll data collected during the course of this year suggests that whereas across Britain as a whole only 37% would vote to stay in the European Union, in Scotland that figure is rather higher, 43% – a difference of six points. Equally, the proportion who would vote to leave is six points lower in Scotland. While that difference is potentially enough to alter the majority outcome, it is not enough to suggest that there is a far stronger groundswell in favour of the European project north of the border." (October 2013)⁴
- Scotland faced huge problems with the administration of the Scottish Parliament Elections in 2007 raising significant human rights issues: 3.5% of the total votes cast were rejected by returning officers - almost 142,000 made up of 85,644 rejected constituency votes and 56,247 from the regional list.⁵
- We note the Electoral Commission's statement on Tower Hamlets in London on 27th May 2014⁶ and its further statement on 1st July 2014 of "Inadequate resource management during the verification and count on Friday 23 May and Saturday 24 May, and on Sunday 25 May" and other issues covered in the report.

Comments

- The HRCS thanks Matt Carey from the UK Cabinet Office and EHRC Scotland for assistance in trying to organise direct engagement with Scottish NGOs on this consultation, via live video link.
- Much more needs to be done to enable people in Scotland to participate in European led initiatives to engage 'citizens' in policy making and democracy.
- The HRCS notes the extensive competence of the UK State to put in place democratic engagement schemes at a national level. We seek commitments that the power is developed so that the UK takes the initiative and enables people know more about 'Europe' and understand its impact on people's daily lives. All information provided should be reliable, authoritative and accessible. Only when people are empowered in this way, will there be an informed assessment on the current balance of competences.
- We support citizen engagement in general and suggest that extending options such as petitions would be a better way forward than restricting, or withdrawing, from such mechanisms.
- The current flourish of meetings and debate across Scotland prompted by the 'independence referendum' proves that people can be engaged and active in

³ BBC website 26th May 2014 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-27575204>

⁴ <http://blog.whatscotlandthinks.org/2013/10/two-different-countries-scottish-and-english-attitudes-to-equality-and-europe/>

⁵ <http://news.bbc.co.uk/1/hi/scotland/6637387.stm>

⁶ <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-corporate/electoral-commission-statement-on-tower-hamlets>

debates about values, policy and change. We urge the UK Government to learn from this effective process of citizen engagement undertaken by both the 'yes' and 'no' campaigns.

- We consider citizen engagement to be consistent with the UK's national interest and with the UK's obligations under the UN International Covenant on Civil and Political Rights eg Articles 19 and 25.

<http://www.justice.gov.uk/human-rights/periodic-reports-to-the-united-nations>

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QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

The drawbacks are that those ex-patriots are prevented from voting in their country of birth and their payer of pensions etc after 15 years out of the UK.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

With the "15 year rule" preventing ex-patriots from voting there is no national democracy in the UK

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

Please don't talk about democracy when the 15 year people are disenfranchised in their country of birth.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Give back the vote to those who have been out of the UK for more than 15 years. You may then talk about democracy. Until then there is no point in engaging with you.

Toby King

I write in response to HM Government's Call for Evidence on the review of the balance of competences between the UK and the EU, semester 4, voting.

Paragraphs 4.29 and 4.30 of this paper state in part:

“UK citizens living overseas are entitled to register to vote in UK Parliamentary and European Parliamentary elections (but not local elections) in the UK, provided that they were previously registered in the UK within the past 15 years (or were resident in the UK within the past 15 years and were too young to register at the time). The UK Parliament decided to impose a time limit on the eligibility of overseas electors to vote in UK elections as it was thought that generally over time their connection with the UK is likely to diminish.

In January 2014, the European Commission made a non-binding recommendation that whilst Member States are competent to determine the franchise for national elections, they should allow their citizens who have moved to other Member States to retain indefinitely the right to vote in national elections. The UK Government will keep the 15 year time limit under consideration, but it is not minded at present to change the law. It successfully defended an action brought by a UK citizen living in Italy for over 15 years in the ECtHR who ruled that there had been no violation of Article 3 of Protocol 1 by the UK and that the UK had legitimately confined the parliamentary franchise to those citizens who had a close connection to the UK and who would therefore be most directly affected by its laws.”

While not disagreeing with this reasoning in itself, I wish to submit that this reasoning wholly ignores the special position of British citizens working as permanent officials of the European Union, who, like any other citizen, lose their right to vote after fifteen years' abroad.

The reasoning in para 4.29 is based on the entirely accurate assumption that over time the connection of British citizens resident abroad with the UK is likely to diminish. For expatriates in general, there are several arguments supporting this argument. A British citizen who decides to live abroad for over fifteen years severs his links with the UK, no longer pays taxes or receives public services in the UK and cannot be considered to have a stake in political life there. By the same token, a British citizen who chooses to live in another country for such a long period of time has in effect transferred his allegiance to his new country of residence. After 15 years, he will be paying taxes in his new country of residence, benefitting from public services there and will be affected by political decisions in that country. To reflect these facts, under most legal systems, it is open to an immigrant after fifteen years' residence to apply for naturalisation as a citizen in his new country of residence and thus to cast his vote there.

However, the situation is wholly different when international civil servants (including permanent officials of the European Union) are concerned. International civil servants are not regarded as taking up residence in the country where they serve in the same way as other immigrants. This is demonstrated by the fact that international civil servants recruited to the European Union institutions from the UK remain domiciled in the UK for tax purposes even though they are physically resident in Belgium or Luxembourg. Their tax liabilities are to the employing organisation itself so far as their salary from the organisation is concerned and to the United Kingdom concerning investment income and miscellaneous income. Furthermore, in general, since international civil servants benefit from certain quasi-diplomatic immunities, they are not permitted to naturalise as citizens of the country of residence. Moreover, even if international civil servants were permitted to naturalise as citizens of the country of residence, it is presumably not the intention of the British government that all British officials working for the European Union should, after fifteen years, become Belgian or Luxembourgish citizens.

Parliament has accepted under s.14 of the Representation of the People Act 1983 that certain categories of British citizens who live abroad and do not fulfil the normal residence requirements for voting are nevertheless entitled to make a declaration which enables them to continue to vote. These categories are member of the armed forces, persons in Crown service and persons working for the British Council, as well as their spouses. It is implicit in this list that the persons concerned continue to retain a strong link with the United Kingdom despite their prolonged absence abroad and have not emigrated with a view to becoming integrated in a foreign country and acquiring its citizenship.

I suggest that exactly the same reasoning applies to British citizens working for international organisations. The only difference between the classes of person set out in s.14 and British international civil servants is that the latter are not employed by the Crown. However, even if British international civil servants are not Crown employees, it is nevertheless clearly in the interests of the British government that British citizens should be employed by international organisations of which the UK is a member. Far from encouraging British citizens to work for international organisations, the current restriction concerning voting may discourage them.

The unusual situation of British citizens working for international organisations is already recognised under the British Nationality Act and the British Citizenship (Designated Service) Order 2006 (SI No 1390) made thereunder. In general, foreign spouses of British citizens who wish to acquire British nationality through naturalisation are required to reside in the UK for three years after marriage. In the case of foreign spouses of British citizens working for international organisations, this requirement would oblige the British citizen to interrupt his service with the organisation for three years while he returned to the UK to fulfil the residence requirement. Parliament has recognised that it would not be in the public interest to force British international civil

servants to interrupt their service in this way and accordingly the Act and Order provide that the Secretary of State may, in the case of British civil servants working for international organisations, waive the normal residence requirement. Through putting in place an exception to the normal residence requirement for British international civil servants, Parliament has recognised that British citizens serving in international organisations should not be regarded as having severed their links with the UK in the same way as a normal expatriate and that international civil servants should not suffer a disadvantage merely by reason of their service abroad.

The special situation of British citizens working for international organisations is also recognised by s2 of the British National Act concerning acquisition of British nationality by descent. Although persons born outside the UK to parents who are British citizens by descent are not entitled to acquire British citizenship, s2 (b) and (c) makes an exception to this rule concerning children born to a father or mother who is a British citizen working for an international organisation. Thus, the Act allows British citizens by descent working for international organisations to transmit British nationality to their children born outside the United Kingdom, whereas this is not possible in the case of children born outside the UK to parents of British nationality by descent who do not work for international organisations. These special provisions illustrate again that Parliament has recognised in the context of nationality law that British citizens working abroad for international organisations have not opted to sever their links with the UK in the same way as normal expatriates and hence should enjoy more favourable treatment concerning the transmission of British nationality to their children.

In light of these arguments, I suggest that completely to disenfranchise all UK citizens serving as international civil servants after fifteen years' employment is unreasonable and unjust, not least because it places international civil servants in a worse situation than other British emigrants. It is also contrary to the long-term interests of the United Kingdom as it discourages British citizens from seeking employment in international organisations.

Accordingly, I would like to request that the opportunity of the review of competences should be taken to address this issue through bringing forward a government proposal to amend s14 of the Representation of the People Act to extend it to include international civil servants as a group of persons who may retain the right to vote during their period of service without fulfilling the normal residence requirement. There is no legal difficulty in formulating the definition of this group, as Parliament has already, in the British Nationality Act, adopted a definition of persons working as international civil servants.

Yours sincerely

Toby King

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

CITIZENS INITIATIVE

- The Lisbon Treaty (art. 11.4) introduced the 'Citizens Initiative'. This is an instrument of direct democracy, which gives the possibility to the citizens of the 28 member states of the EU to ask the Commission to initiate legislation on matters where legislative action is considered necessary for the purpose of implementing the treaties. The Commission is not obliged to follow up the Citizens Initiative with the new legislation, but it needs to justify its (in)action.
- The regulation disciplining the Initiative states that "entities, notably organizations which under the Treaty contribute to forming a political awareness and to express the will of the citizens of the Union, should be able to promote a citizens initiative" (art. 9 Reg. 211/2011).
- The Initiative is an instrument to promote the direct involvement of the European citizens, but its implementation is logistically complex as it requires 1 million signatures, collected in at least a quarter of the member states (currently, seven).
- Political parties at the EU level (the umbrella organizations bringing together in Brussels the national member parties) could provide the organizational capacity and resources to facilitate the cross-national collection of signatures. Yet, it is worth noticing that – by the end of 2013 – in a single case only (the initiative for 'suspension of the EU Climate and Energy Package' a political group in the EP - the Eurosceptic Europe for Freedom and Democracy - is listed among the sponsors, providing funds to support the initiative, asking for a suspension of EU regulations.
- There are currently (7 July 2014) five initiatives open for the collection of signatures and in early 2014 the first successful initiatives (Right2Water and One of US) collected more than 1.5 million signatures. In the case of One of US, however, the Commission did not justify its choice not to follow up with a legislative proposal.
- Despite some successful initiatives, the impression is that this instrument has still to be exploited to its full potential. The costs to set up an initiative are high, especially considering the uncertainty in the outcome (see the One of US initiative). Europarties have not used the initiative to engage in cross-national debates, but have left the sponsorship and promotion of initiatives to organizations defending more specific interests.
- Although the threshold of one million signatures does not seem very high if confronted with the 400 million citizens entitled to vote in the EP elections, it is

here suggested that the threshold might be lowered in an early stage of implementation, to boost the kick-off and success of the initiative.

THE CONSOLIDATION OF THE EUROPARTIES

- According to the Treaty of Lisbon (art. 10.1) “the functioning of the Union shall be founded on representative democracy”. The Treaty also adds (art. 10.4) “Political parties at the European level contribute to forming European political awareness and to expressing the will of the citizens of the Union”.
- Political parties at the EU level receive public funding from the EU budget which, in 2012, amounted to more than 18 million euros.
- For the first time since direct elections for the European Parliament were introduced in 1979, Europarties have selected and proposed a candidate for the Presidency of the European Commission. On the bases of article 17.7 of the Treaty of Lisbon, which demands the European Council to “take into account the elections to the European Parliament”, the major Europarties (the exceptions being the more conservative and Eurosceptic groups) have all selected a candidate leading the party campaign across the EU.
- Until the Treaty of Maastricht, the European Parliament had no role in the nomination of the Commission President. The Amsterdam Treaty clarified that the “nomination shall be approved by the European Parliament”. After the precedent set by the Santer-Commission resigning en masse in 1999 following corruption allegations against individual members levelled by news media organisations and subsequently MEPs, the European Parliament emerged as a more powerful actor. The European Parliament pushed Barroso in 2004 and 2009, then Commission President, to replace some designated commissioners that failed to pass the grilling by MEPs at the parliamentary hearings. Ahead of the 2009 EP elections, there was a clear endorsement of a candidate by the European People’s Party.
- In a communication of the European Commission on the 2014 EP elections (COM(2013) 126 final) it is argued that the election of the President of the Commission would be beneficial to the EU political system for several reasons: it would bring more transparency to the process of selecting the “figurehead of the EU executive”, it would enhance participation of the EU citizens and it would contribute to “forging a European public sphere”.
- In April 2014, the plenary of the European Parliament voted on a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations (repealing regulation 2004/2003). According to the new resolution, Europarties and their associated foundations would be attributed legal personality according to EU law.
- The visibility of the Europarties in the member countries of the EU varied. In some countries (for example, Italy) the Europarty label was generally present on the ballot (for instance, the Democratic Party had the logo of the Party of the

European Socialists next to its own. Left-wing parties formed an electoral cartel named “Tsipras List” from the name of the candidate President of the Commission of the European Left). In the UK, the Europarties have been absent from the electoral campaign and their logos have not featured in the ballot paper.

- While the EP elections remain decentralized elections, contested by national parties in the member countries of the EU, a number of recent changes are worth emphasizing. For the first time, the Europarties have campaigned with a common candidate across the EU. All the Europarties have taken the selection of their candidate very seriously: organizing online primaries (in the case of the European Greens) or asking their member national parties to endorse a candidate, to be voted or acclaimed at the Europarty congress. It needs to be further noted that internal party contests were generally competitive: three candidates entered the run for the European People’s Party, two for the Alliance of the Liberals and Democrats for Europe and four for the European Greens. As the Europarties are, at the moment of writing, close to be granted EU legal personality, their institutional presence in Brussels is going to be strengthened.
- A proposal by the former British MEP Andrew Duff to introduce a transnational constituency – modifying the 1976 Election Act – was meant to bring in 25 additional MEPs elected in a single EU-wide constituency and selected by the Europarties. In Duff’s words, the Europarties would be transformed, by managing the electoral list, into “real campaign organizations”. Through the introduction of a transnational constituency, the monopoly of national parties in candidate selection would have been broken. Ideally, candidates with a strong focus on the EU (for instance, very active members in the EP) would be selected. Yet, there was some opposition to the proposal in the EP itself and it has been finally withdrawn.
Even if organizational and legal problems arise, a transnational constituency would most likely strengthen the public visibility of the Europarties and the European character of the EP elections.
- Europarties still do not offer individual membership, but some of them have developed new mechanisms for citizens’ involvement. The ALDE associate members and the PES activists, although not ordinary party members with voting rights, are individuals willing to engage in partisan activities and contributing to Europarty life (for instance, to electoral campaigning).

Sources: this section develops some ideas presented in more depth in E Bressanelli, *Europarties after Enlargement: Organization, Ideology and Competition*. Palgrave, Macmillan, 2014.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

- Voting at elections is only one (albeit, arguably, the most important) of the ways in which citizens can influence policy-making in any political system. In the EU context, there are two channels of representation (art. 10.2 TEU). European citizens are directly represented in the European Parliament (the supranational channel) and Member States are represented in the European Council and the Council of Ministers, which are in turn accountable to national parliaments and citizens (intergovernmental channel). Art. 11.1 TEU further adds that the “institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action”.
- The European Commission regularly consults on new policy initiatives online, but unless one is familiar with the EU-websites and structures and has a lobbying presence in Brussels such initiatives do not spread substantially beyond the usual suspects. It might be a good idea for such consultation exercises to be publicised and hosted also through national authorities to make sure concerns and suggestions are voiced earlier in the legislative process. Too often problems with legislative initiatives are not spotted by the participating actors, especially because national ministers and parliaments often lack the motivation, information or time to adequately scrutinise EU decision-making.
- However, in order to make full-use of this information UK citizens need to acquire at least a basic understanding of how the EU works. Unfortunately, opinion polls show that UK citizens are considerably less well informed and more undecided (‘don’t know’) about matters to do with the EU than citizens of other European countries. The EU is hardly covered in national curricula and the level of information about the EU in the public domain, including quality media, is often dismal with journalists getting basic facts about EU institutions (Council of Europe, European Council, Strasbourg vs Luxembourg Courts, and membership and selection procedures for these bodies) wrong. Investment in citizenship education at all level (primary, secondary education and adult education), which includes basic information about the EU and how to influence it, is thus indispensable for using such opportunities (see above). Public information campaigns about opportunities such as the citizens’ initiative could then fall on more fertile grounds.
- An important political right for EU citizens and residents is the right to petition the European Parliament. The total number of petitions received by the European Parliament has been growing year after year. In 2001, 1132 petitions were received. In 2012, the number of petitions received by the EP doubled and reached the number of 2322. Petitions are a sort of “reality check” for Members of the European Parliament (MEPs), as they allow both MEPs and

the European Commission (which jointly review petitions) to understand what the key issues are for the European citizens.

- If the number of registered petition is disaggregated by country, data (from the 2012 Annual Report of the Committee of Petitions in the EP) reveal that the UK citizens are not using this instrument as extensively as citizens of other nationalities. In 2012, 23.9 per cent of the registered petitions were from German nationals, 15.7 per cent from Spanish nationals, 12.1 per cent from Italian nationals and 7.1 per cent from Romanian nationals. UK citizens have submitted only 5.3 per cent of the registered petitions (down from 6.3 in 2009).
- Petitions may result in political action by the Commission or the European Parliament. For instance, in the Equitable Life Assurance Society crisis, a British assurance company that run into financial difficulties, the European Parliament set up a committee of enquiry in response to the concerns that had previously been raised via several petitions to the EP. As the final report of the committee (written in 2007) puts it: “These petitions formed the basis and starting point of the inquiry and have helped focus its direction [...] The central role of these particular petitions also reflects the general importance of Parliament’s Petitions Committee in monitoring the application of Community law”.
- The European Citizens’ Initiative is a new instrument that citizens and organized interests may want to use to advise the Commission on new legislation in the EU field of activity. In order to be valid, the Initiative requires at least one million signatures of citizens from a quarter of the member states. According to Regulation 211/2011, the minimum number of signatories of a citizens’ initiative should correspond to the number of the Members of the European Parliament elected in each Member State, multiplied by 750. In the UK, that amounts to 54750 signatories (as of March 2014). In order to collect the signatures, and do so on a cross-national bases, the success of any citizens’ initiative is likely to depend on the involvement of transnational organizations and/or the creation of transnational networks. The threshold might also discourage participation in this early phase after the launch of the Initiative. The collection of a lower number of signatures might be considered.
- Besides more institutional channels of participation and influence, European citizens may engage the European institutions via their MEPs, interest groups or the Europarties. In the former case, one of the foci of the representative activity of the MEPs is their local constituency. Generally, and more extensively in political systems with ‘open’ rather than ‘closed’ list systems (see D. Farrell and R. Scully, *Representing Europe’s Citizens?* , Oxford University Press, 2007), MEPs engage in constituency-service activities. Complaints or requests from their constituency can then be channelled to the EU decision-makers through, for instance, oral and written questions to the European Commission.
- Citizens’ engagement with the EU can also occur through organized interests. A comprehensive map of the country of origin of the organizations registered to lobby in Brussels reveals that the UK is second only to Germany, with the 13.3

percent of the total of registered lobbying organizations (A. Wondka *et al.* “Measuring the Size and Scope of the EU Interest Group Population”, *European Union Politics*, 11:3). Although professional associations and corporations represent the biggest share of the organizations represented in Brussels, groups representing ‘public interests’ are on the rise (J. Berkhout and D. Lowery, “The Changing Demography of the EU Interest System since 1990”, *European Union Politics*, 11:3). This offers new opportunities for citizens – and not exclusively businesses and professionals – to seek to upload their preferences to Brussels.

- Europarties might offer a more important avenue for citizens’ involvement in EU politics in the near future. At present, however, membership in the Europarties is constituted by the national parties, whose voting weight in the Europarties decision-making bodies is broadly proportional to their size. The growing importance of the Europarties has been clearly illustrated by the nomination of Juncker for the Presidency of the European Commission. The selection of Juncker by the European People’s Party, and the results of the EP elections, constrained the room of manoeuvring of the European Council. Not to sit at the table with the EPP or the PES party leaders might have increasing costs in terms of influence.

Anthony Lea

Response to the Government's consultation paper on VOTING.

Anthony LEA

[REDACTED]
[REDACTED]

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

1/. Representation at the European Parliament for British Citizens.

It is highly desirable that British Nationals are able to be represented by English speaking MEPs who thereby thoroughly understand the background of the British Citizen.

At the moment any such representation is available ONLY if the citizen has resided 'abroad' for less than 15 years. This time limit must be removed to enable this vital democratic link.

The EU law states...

See pp 4.16 page 12 of the introductory notes.

4.16 EU citizens can choose whether to vote in their Member State of citizenship or of residence.

IT IS UNDEMOCRATIC to retain the 15 year limit for it is in opposition to the spirit of European law, preventing citizens choosing where to vote for an MEP.

The 15 year limit violates the spirit of article 4.1 of Directive 93/109/EC.

It also is contrary to the spirit of the introductory paragraph 10 (page 2) of the Directive which promises Citizens the freedom to choose the Member State in which to take part in European elections.

The present situation is that by being retained as a 'constituent' for a British Constituency it enables one to be represented by the associated BRITISH MEP – however....

It would be desirable if British MEPs had the responsibility at all times to represent British Citizens residing in other States of the EU. (See answers to Question 3 & 5 below).

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

Representation at the Westminster Parliament for British Citizens abroad in the EU. This at first sight appears unrelated to the European context but it most surely is! The same electoral laws should apply uniformly across the Union.

para.. 4.30 of the accompanying notes raises this issue and it needs to be addressed. I quote in relation to the Harry Shindler case “the ECtHR who ruled that there had been no violation of Article 3 of Protocol 1 by the UK and that the UK had legitimately confined the parliamentary franchise to those citizens who had a close connection to the UK and who would therefore be most directly affected by its laws..”

Those British Citizens who live in the wider EU (I write especially, but not exclusively, for the pensioners) know this ruling to be fallacious. For most, all their income is derived from the UK – many must pay tax to the UK - their cultural and family and social connections are with the UK – many own property in the UK – nearly all listen to British radio and TV and are as aware as anyone resident in the UK of the political situation in the UK – treaties are formed between the UK and their resident State and the EU which affect them most deeply. Laws are made at Westminster which affect them profoundly. Their concerns are so wide that it would be democratically intuitive to consider the institution of an MP or MPs to represent them.

Although the British Citizen abroad is by his/her very existence a good or bad ambassador for Britain and most are proud of their British heritage, the British Government by its blindness to their value has made many angry and thoroughly disillusioned with all politicians. They are thus turned off voting or having an interest in political activity. It is dangerously sad, for they then report ill of Britain with their European friends. The French have such a different view of their citizens abroad.

Citizens (especially the younger ones) move around Europe and yet are linked to their Nation State. The idea that they should at each move change their citizenship is an obvious nonsense. Their Right of free movement is curtailed by in effect losing all Political Representation.

3/. MEP representation for British Citizens in Switzerland and Norway.

Since these States have no MEPs, the British Citizens there (after 15 years abroad) have no possibility of representation by anyone at all!

4/. Representation at the National level in the EU State where a British Citizen is living.

The fundamental principle of Democracy is that the citizen should have a voice with whichever law making authority affects the citizen. The EU laws say that one can vote (have a voice and dialogue!) at the very local level but no more.

There is a cry in Europe N.B. The Euro- Citizen's Initiative 'LET ME VOTE' . It concerns this very point.

5/. Representation at the local commune level. This (in France and I believe in Spain) is working supremely well. The local communes in France welcome the input of the British and other nationals.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The Responsibilities of MEPs. MEPs are elected for 'constituencies' and become members of a list. That might give them an impression that they should respond only to 'electors' within that district. Interestingly the situation of Gibraltar [q.v para 4.5 page 8 of the accompanying introductory notes] being tied to the SW of England touches on this topic.

Out of this springs two lines of thought.

1. That it might be useful to link British Nationals resident in various States of Europe to MEP constituencies within the UK.. It would be no bad thing if such MEPs represented the expatriate British Citizens variously in other parts of the EU.

2. That particular MEPs should take on board responsibilities for certain areas of the operation of EU laws, to become specially knowledgeable in those matters

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

Petitions –

1. The EU Parliamentary petition process appears to be a 'good thing'.

2. The European Citizens Advice service (previously The Signpost Service) procedure is excellent – I have used it myself.

3. Concerning the UK Government petitions service. It is conceivable that even petitions signed by only a few people could be important. The number thresholds are not necessarily the right way of looking at the value of a petition ...

4. The Euro Citizen's Initiative faces a similar hurdle to the above in requiring a million signatories. (see answer to Question 5)

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Communication with the electorate.

This is the huge 'elephant in the room' for the British Government and the constituency politicians.

It effectively kills interest in politics amongst British Citizens abroad to tell the British Citizen abroad that 'you can't vote after 15 years'.

The Government and the political Parties need to express an interest in the Citizen in the wider EU.

How to do that?

- a. Give British MEPs a wider remit to represent Britons in Europe?
- b. Senior politicians should visit areas where British Citizens are reasonably concentrated, to meet and discuss.

For the interest of the influence of Britain in Europe, it is essential that the Britons in Europe are respected by the British Political class.

Unfortunately among the electorate the attitude of British politicians (perhaps incorrectly) is perceived as 'I want you to vote for me' rather than 'I want to help you live a worthwhile life'.

The British Government and the British politician need to demonstrate without any doubt that they want to help the British Citizen abroad in the wider EU.

The Freedom to Vote and being Politically Represented is so fundamental, that only by giving this Right to all British Citizens for life can Britain claim to have embraced truly the spirit of Democracy. It seems that the EU desires this.

A Lea
British Citizen Resident in France since 1994

Review of UK and EU balance of competences: response to the call for evidence on voting

Lead contributor

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Introduction

The two EU level voting opportunities for EU citizens are to elect MEPs at European Parliament (EP) elections, and to support policy proposals as part of the European Citizens Initiative (ECI) process.⁷ Citizens are also able to make use of the European Ombudsman. This response to the call for evidence in these areas is framed by the distinction between the issues arising in relation to EU related voting from a citizen perspective, and from the more practical perspective of government administration.

Underpinning the response below is the presumption that in principle it is beneficial for UK citizens (as EU citizens) to be able to effectively participate democratically at EU level so that they might hold to account and influence the agendas of EU institutions that make policy and legislative decisions that influence their lives. Furthermore, it is presumed that the strengthening of EU citizenship that this is likely to lead to is viewed as a *supplementary* democratic opportunity that will complement and not directly challenge UK citizenship and its associated democratic participation. The assessment of the benefits and drawbacks of the current legal provisions for EU citizens in terms

⁷ EU citizens are also able to vote in municipal elections when resident in a member state other than their home member state.

of voting therefore focuses on how strongly democratic criteria are met.⁸ Put simply, if the EU is to exist as a polity with exclusive and shared competences, there should be direct democratic legitimisation by EU citizens.

1.1 European Parliament Elections – Citizen Perspective

The first opportunity for Union citizens to vote directly at EU level was provided by means of elections to the EP. Initially only a consultative assembly, the EP has gradually strengthened its political role to the position today where it is an almost equal partner in the ordinary legislative procedure of the EU. The EP is the only EU institution directly legitimised by EU citizens and developments in its role have, in part, been in response to the criticism of a democratic deficit at EU level.⁹ The EP's increased involvement in EU law making must remain within the competences provided for by the Treaties so strengthening its role and democratic legitimacy should not be viewed as altering the balance of power between the EU and the Member States. The decision about what the actual balance of competences should be remains with Member State governments and is indirectly legitimised via democratic instruments at member state level. Rather, the enhanced role of the EP should be viewed as a means of ensuring that, where Member States have chosen to transfer certain competences to EU level, there is the opportunity for citizens to directly democratically legitimise that role.

One of the novelties of the Lisbon Treaty is Article 17.7 TEU, which states that 'the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission' '*[t]aking into account the elections to the European Parliament*'.¹⁰ The wording although vague marks a departure from pre-existing practices, whereby the Commission President was essentially agreed among the members of the European Council. The decision to nominate a candidate for Commission President from the largest EP party grouping post elections, in line with Commission recommendations, is evidence that the process of strengthening the EP supranational parliamentary role is ongoing and its criticisms, in this case of weak party politics leading to weak democratic legitimacy, continue to be addressed.¹¹ It is also evidence of the evolving relationship between the EU

⁸ For a classic summary of the criteria that democratic instruments should meet see Dahl, R, 'On Democracy', (Yale University press, 2000). Effective participation, equality, enlightened understanding, agenda influence, and inclusion are Dahl's five democratic criteria.

⁹ For a standard account of the EU democratic deficit see for example, Weiler, J, Haltern, U, and Mayer, J, "European Democracy and its Critique, five Uneasy Pieces", *West European Politics*, 1995, 18(3):4-39. Although broadly accepted, there are academics, such as Moravscik and Majone, who contest the existence of a democratic deficit at EU level. See for example, Moravscik, A, 2002, "In defence of the Democratic deficit: Reassessing the legitimacy of the EU" *JCMS*, 40 603-34; Majone, G, "The Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth", (OUP, 2005). For a direct response to these positions see Follesdal, A and Hix, S, "Why there is a democratic deficit in the EU: A response to Moravscik and Majone", *JCMS*, Sep 2006, Vol. 44 Issue 3, p533-562.

¹⁰ Emphasis added.

¹¹ See Hix, S, 'What's Wrong With the EU and How to Fix It' (Polity, 2008) for further discussion of the impact of weak EU political parties and other issues affecting the EP. For further information regarding the Commission recommendations relating to the nomination of Commission president candidates and other initiatives to improve the democratic basis of European Parliament elections see

institutions, and a development in the manner in which direct EU level democratic legitimisation and indirect member state democratic legitimisation are combined. UK citizens retain the existing national democratic means to legitimise the role of their representative in the European Council and the Council of ministers, but their EP vote should now have increased influence over EU policy, if in fact it does decide the selection of the Commission President.¹² From a UK governmental perspective, however, there is an increased possibility that UK policy may have to cede to the wishes of the majority of EU citizens as expressed through their parliamentary vote.

There is a concern in the UK about the low turnout in EP elections and that they are second order national elections focused on national rather than EU issues.¹³ EP party groupings are not prominently displayed by UK political parties and issues debated are often national, not EU, ones. At the recent EP election the first televised debates between leaders of party groupings in the EP, and the first between two UK party leaders on the subject of the EU were held. Aside from these indicators of change, however, the role of the media, particularly the print press, continues to be criticised in the UK for its negative impact on the democratic principles of citizen understanding and effective participation in elections.¹⁴ Whether direct EU democracy or indirect member state democracy is stronger in legitimising EU policy, it is not in the democratic interests of UK citizens to be making poorly informed choices in relation to the EU, whether they happen to be in favour of the status quo or not.

1.2 European parliament Elections – Administrative Perspective

A recent report that analysed the implementation of EU law relating to the voting franchise for EU citizens in the UK concluded that the UK has fully and promptly implemented the relevant provisions of EU law, chosen not to make use of any of the derogations provided for in the legislation, and has even gone further than required by

http://europa.eu/rapid/press-release_IP-14-321_en.htm and http://europa.eu/rapid/press-release_MEMO-13-202_en.htm

¹² The UK's domestic process of legitimising governmental policy in the Council has also evolved through the introduction of referendums in the EU Act 2011. See discussion in Dougan, M and Gordon, M, "The United Kingdom's European Union Act 2011: "Who Won the Bloody War Anyway?", *European Law Review*, Feb 2012, 37 p3-30

¹³ For recent comment on voter engagement in European Parliament elections see, inter alia, Hobolt, S and Spoon, J, "Motivating the European voter: Parties, issues and campaigns in European Parliament **elections**", *European Journal of Political Research*, Oct 2012, Vol 51, (6) p 701-727; and Clark, N, "Explaining Low Turnout in European **Elections**: The Role of Issue Salience and Institutional Perceptions in **Elections** to the European Parliament", *Journal of European Integration*, Jun 2014, Vol. 36 (4), p339-356

¹⁴ These are two of the democratic criteria from Robert Dahl that were referred to above. An indication of the disparity in media coverage in the UK and other member states can be seen at <http://blogs.lse.ac.uk/europpblog/2014/06/09/media-coverage-in-germany-and-the-uk-shows-why-both-countries-have-radically-different-views-over-who-should-be-the-next-commission-president/>. Evidence relating to the negative coverage of EU issues can be found at <http://blogs.lse.ac.uk/politicsandpolicy/media-coverage-of-the-european-union-is-key-to-understanding-euroscptic-attitudes-within-the-uk/>

EU law and provided some enhanced democratic participation for Union citizens.¹⁵ The report states: “the right to vote [in the UK] has been extended to (certain) Union citizens beyond the franchise for Union citizens in local and European Parliament elections required by Directives 94/109 EC and 94/80 EC in the following areas: National parliamentary elections; Elections in relation to devolved bodies; and Police commissioner elections”.¹⁶ These Directives that establish the right of EU citizens to vote in the UK are also important in providing UK citizens the right to vote when residing in other Member States.

EU law makes no provision for EU citizens to vote in national elections. The decision as to who votes in national elections remains within the competence of Member State governments, and it is usually based on nationality rather than residency. In the UK, though, citizens of Malta, Cyprus and the Republic of Ireland are able to vote in national parliamentary elections when resident in the UK because of special provisions for Commonwealth and Irish nationals.¹⁷ From the opposite perspective the UK also associates national voting rights with residency over nationality through the ‘15 year rule’ whereby UK citizens lose the right to vote in UK national elections after 15 years’ absence from the UK. The residency basis for the voting franchise could be extended to EU citizens voting in the national elections of the Member State in which they are resident rather than the one of which they are a national; possibly through multilateral cooperation rather than a change to the treaties so that competence over the national franchise remains with Member States. The benefit would be to provide a consistent legal basis for the administration of the electoral processes in a Member State in relation to EU citizens. EU citizens as a result would only vote in the Member state in which they are resident, which would avoid administrative difficulties such as that raised by the possibility of voting twice in EP elections, or the issues of eligibility raised below in the section on the ECI. In the UK the extension of the franchise for EU citizens to voting for devolved authorities and the opportunity for an EU citizen to stand as a Police Commissioner leads to the administrative benefit of only have a single electoral register for these and municipal elections.¹⁸

There have been challenges to the UK approach to voting rights based on EU law in relation to the 15 year rule and the controversial issue of prisoner voting rights. In the *Preston* case a British citizen resident in Spain claimed that the 15 year rule acted as a deterrent to free movement and was therefore contrary to EU law.¹⁹ The Court of Appeal ruled that the rule was justified under EU law and also that it was a legitimate means of ensuring that only citizens with a sufficient national link were eligible to

¹⁵ Horsley, T and Reynolds, S, “Union Citizenship: development, impact and challenges. National Report on the United Kingdom”, FIDE Congress 2014. Also part of the work of the Liverpool European Law Unit. Report is available at http://www.ukael.org/associates_59_719225124.pdf.

¹⁶ Pg 35 of report cited supra 9. For further discussion of this extension see pgs 35-37 of FIDE report.

¹⁷ Special provisions are made for Commonwealth and Irish citizens in the Representation of the People Act 1981

¹⁸ See report cited supra 9, pgs 35-37

¹⁹ *R. (on the application of Preston) v Wandsworth LBC* [2012] EWCA Civ 1378.

vote.²⁰ Successful challenges to the UK restriction of prisoner voting rights have been based on the ECHR, but have been unsuccessful when applying EU law.²¹ EU law has not therefore been able to be used to challenge the national competence to decide the extent of the electoral franchise.

One relatively minor administrative change to the EP elections would be to hold the elections on a Sunday rather than the traditional Thursday in the UK. If the EP elections are viewed as a single election across a wide geographical area then there is an administrative logic from an EU perspective in holding an election on one day, and it would reduce the possibility of voters being influenced by voting patterns in other areas.²² This might also enhance the status of EP elections and possibly lead to an increase in citizen deliberation and turnout. From a UK perspective holding EP elections on a Sunday would mean that in the UK there would be different election days for different types of elections. The UK is used to a fragmented approach to elections, with local elections not happening consistently across the country; and the non-concurrent voting method of postal votes is already widely used. Without a strong democratic basis for the change, the decision to move to a common day for voting is likely to depend on whether the UK and other member state governments want to maintain their electoral traditions and the impact on electoral administration.

2 European Citizens Initiative (ECI)

The ECI is the second, more recent, means by which EU citizens can democratically participate in EU policy making.²³ It can be used to make proposals to the Commission for the initiation of legislation, as long as the proposal is within the existing competence of the Commission. The proposal is submitted to the Commission for consideration once it is supported by over one million EU citizens from a quarter of the Member States. There has been some success in engaging EU citizens: in the first 18 months of its launch over 40 ECI committees were formed and ECI proposals made, and approximately 5 million statements of citizen support for ECI proposals were gathered.²⁴ Three of the ECI proposals reached the support thresholds required and the first of these, the Right to Water ECI, has led to a legislative proposal from the Commission. However, there have been some significant practical and substantive difficulties with the implementation and interpretation of the ECI provisions, and its democratic potential has been restricted.²⁵ This first section below comments on the

²⁰ See report cited supra 9, pgs 37-38 for comment on the *Preston* case

²¹ In the case of *McGeoch v Lord President of the Council* [2011] CSIH 67 and, recently, *McGeoch v Lord President of the Council* [2013] UKSC 63 EU law was rejected as a basis for giving prisoners the right to vote.

²² The referendums that culminated in Norway's rejection of EU membership were lined up to maximise any pro EU momentum. It is unclear whether the sequencing had an impact, but if it did it failed to get the hoped for, from an EU institution perspective, yes vote in Norway.

²³ ECI was established in Art 11(4) TEU following the Lisbon treaty and the implementing Regulation 211/2011 was enacted in April 2012.

²⁴ All ECI proposals can be viewed at <http://ec.europa.eu/citizens-initiative/public/welcome>

²⁵ For an overview of the practical experience of ECI campaigners in the first two years of the ECI see <http://ecithatworks.org/wp-content/uploads/2014/03/An-ECI-That-Works-Reform-ECI-Registration.pdf>

ECI from the perspective of its democratic potential for citizens, and the second section comments on the administration of the ECI.

2.1 ECI – Citizens Perspective

The ECI is a supranational democratic tool that provides EU citizens, including UK citizens, a direct means of influencing policy making at the EU level. This development of supranational democracy, though, should not be overstated with its impact possibly only being felt in the longer term: “In terms of its potential as a truly democratizing force, the new instrument needs to be seen as a very small, preliminary reform – simply as a transnational ‘baby-step’”.²⁶ Part of the reason for this is that the democratic potential of the ECI to influence the EU agenda, and its ability to be used to challenge established policy preferences have been limited at the registration and outcome stages of the ECI process.

Before ECI organisers can be given the green light to collect citizen support for their proposal it must be registered by the Commission. The strict interpretation by the Commission of the requirement in Art 4(2)(b) Reg 211/2011 that ECI proposals must not ‘manifestly fall outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union’ has led to 40% of ECI proposals being refused registration.²⁷ This restrictive interpretation of the ECI Regulation has excessively limited its democratic potential to enable citizens to use the ECI to influence the EU policy or legislative agenda, either through developing public debate on EU issues or through leading to a concrete legal act of the Union.

To be registered an ECI proposal must also be ‘for the purpose of implementing the treaties’.²⁸ The Commission has interpreted this phrase as excluding any ECI proposal that requests or requires a treaty change, which means that ECI proposals can only address issues falling within existing EU competences and not seek change to the treaties themselves.²⁹ Some commentators, however, have said that it was never the intention of the drafters of the treaty provision to exclude treaty amendment.³⁰ The one exception to this restriction has been the registration of the Let Me Vote ECI that

²⁶ Kaufmann, B, “Transnational ‘Babystep’: The European Citizens Initiative, pgs 228-242 in Setälä, M and Schiller, T, (eds.) “Citizens Initiatives in Europe: procedures and consequences of agenda setting by citizens”, (Palgrave Macmillan, 2012). See also B. Kaufmann “The ‘new’ participative paradigm. How the European Citizens’ Initiative can become the standard bearer of 21st century super-democracy” in Kaufmann, B and Pichler, J (eds), *The European Citizens’ Initiatives – Into new democratic territory*, (Intersentia 2010).

²⁷ Organ, J, “Reform ECI Registration and Expand Public Debate: Reconsidering Legal Admissibility”, available at <http://ecithatworks.org/wp-content/uploads/2014/03/An-ECI-That-Works-Reform-ECI-Registration.pdf>

²⁸ Art 11(4) TEU, and included also in Art 4(2)(b) Reg 211/2011

²⁹ These two ECIs were rejected because they had included treaty change in their ECI proposal: <http://ec.europa.eu/citizens-initiative/public/initiatives/non-registered/details/429>
<http://ec.europa.eu/citizens-initiative/public/initiatives/non-registered/details/1175>

³⁰ e.g. Efler, M, “European Citizens Initiative, Legal nature and criteria for implementation”, in Kaufmann, B and Pichler, J (eds) *The European Citizens’ Initiatives – Into new democratic territory*, (Intersentia 2010)

proposed a change to Art 20(2) TFEU so that EU citizens resident in another member state could vote in all elections there.³¹ The difference between this ECI and the others is that this change can be triggered by the special legislative procedure in Art 25 TFEU.

The democratic potential of the ECI to influence the EU agenda is also limited because the Commission is only obliged to *consider* proposing a legal act in response to a successful ECI.³² This means that there is no obligation to positively respond to the wishes of over a million EU citizens and enables the Commission to control the legal impact of any citizen led ECI proposal.³³ Experience in terms of legal impact has been mixed so far. The first ECI proposal to collect the necessary support to submit its proposal to the Commission, the Right to Water ECI,³⁴ has led to a legislative proposal. The second ECI heard by the Commission, though, has been refused a legislative response;³⁵ a decision to which a legal challenge in the EU courts is being considered. Finally, even if the Commission does make a proposal for a legal act of the Union, any legal outcome requested by an ECI proposal must also survive the ordinary legislative procedure during which the Council or EP may water down or reject the legislative proposal.

Overall the ECI is not likely to have a strong early impact on EU policy, and even less so on the balance of competences in the EU, and the democratic potential of the instrument is relatively weak. However, a review of the legislation is underway and this democratic potential and the ability of citizens to influence EU policy, and possibly even the treaties themselves, may be enhanced. This could mean that in the long term the ECI leads to a stronger acceptance of EU citizen led supranational democracy. The limitations on the potential of the ECI to influence EU policy are not a question of division of responsibility or allocation of competences, but one of legal interpretation by the Commission and political will to strengthen the role that the ECI gives to EU citizens. During the formal EU review of the ECI legislation this year there is an opportunity to strengthen the extent that the ECI gives EU/UK citizens a direct voice in the process of initiating legislation in the EU.³⁶

³¹ <http://ec.europa.eu/citizens-initiative/public/initiatives/finalised/details/2013/000003>

³² Art 10 Reg 211/2011

³³ See discussion of this issue in Dougan, M, 'What are we to make of the Citizens Initiative?' CMLRev, 1825-1832

³⁴ Details of the Right to Water ECI are available at <http://ec.europa.eu/citizens-initiative/public/initiatives/finalised/details/2012/000003>

³⁵ Details of the One of Us ECI are available at <http://ec.europa.eu/citizens-initiative/public/initiatives/finalised/details/2012/000005> See http://europa.eu/rapid/press-release_IP-14-608_en.htm for the Commission's response to the One Of Us ECI.

³⁶ A three yearly review of the ECI legislation is provided for in Art 22 Reg 211/2011

2.2 ECI – Administrative Perspective

The issues that arise as a result of the administrative organisation of the ECI relate to data security, the eligibility to vote, and the verification of citizen support for proposals. The issues have arisen due to the lack of consistency between Member State law and administrative processes.

The seven committee members for an ECI proposal are expected to be responsible for the data security of the information held about citizens who support their proposal.³⁷ Data security laws are not consistent across EU member states and it was unclear how they were to apply to the collection of statements of support for an ECI proposal, and the extent of the legal responsibility for committee members. The Commission resolved the issue by providing use of a server to hold the data in Luxembourg for all ECI committees so that a consistent legal standard could be applied and some of the burden of holding the data be removed.

The verification of statements of support from citizens for an ECI proposal has also highlighted the differing approaches across the EU towards electoral processes. Some member states require that all statements of support for an ECI proposal are verified, whereas other member states, such as the UK carry out a sample check of support to verify validity of support.³⁸ In this aspect the UK had some success in reducing the bureaucracy of the ECI process, but there remains a varied administrative approach across the Member States that complicates the administration of the ECI process and also the ability of citizens to use the ECI to influence the EU agenda.

Decisions about the eligibility of citizens to support an ECI proposal are also made at the member state level. Some, such as the UK, have based the decision of who is eligible on residency and require little in the way of identification, while others have based it on national citizenship and require specific forms of identification from citizens wishing to support an ECI proposal.³⁹ This means that the connection of EU citizens to a member state for the purposes of supporting an ECI proposal are based on a mix of residency, nationality and identification documents. One of the impacts has been to exclude some groups of citizens from being eligible to support ECIs; for example UK citizens living in Spain had been excluded because they were not resident in the UK and could not rely on their nationality to support an ECI proposal, and at the same time they were not able to obtain the form of identification required by the Spanish authorities.⁴⁰ There has been progress with issues of this sort as member states have increased the consistency of approach, for example with some of the more onerous requirements of identification documents being dropped and residency requirements

³⁷ Art 12 Reg 211/2011

³⁸ See comment by David Liddington, minister for Europe re this issue at <http://www.publications.parliament.uk/pa/cm201011/cmgeneral/euro/110117/110117s01.htm>

³⁹ See Part C of Reg 211/2011 for the list of different identification requirements to support an ECI across the EU.

⁴⁰ Dougan, M, 'What are we to make of the Citizens Initiative?' CMLRev, 1825-1832 on the issue linking citizens to member states for eligibility purposes.

being widened, but the process remains inconsistent and complex for citizens proposing an ECI to manage.⁴¹

These issues highlight the importance of consistency for an instrument of direct democracy such as the ECI, particularly a supranational one. In the absence of a form of an EU Electoral Commission or an agreement to base the franchise on residency, the resolution of the administrative and democratic issues resulting from inconsistency lies in developing closer cooperation between the Member States and overcoming the reluctance to depart from the traditional approach to electoral processes in any given member state.

3 European Ombudsman

The mandate of the European Ombudsman is primarily defined by Article 228 TFEU, which *inter alia* states that the Ombudsman is 'empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies'. It should be noted that the Ombudsman can supervise only the EU institutions, bodies, offices, and agencies. If the alleged maladministration concerns the national authorities, even when they are implementing EU law, citizens should address the complaint to the national or regional ombudsman. Citizens are not always aware of this.⁴² In addition, a 'European Network of Ombudsmen' has been created; one of its functions is the transfer of complaints from the European Ombudsman to the national/regional ombudsmen and vice versa.⁴³ From the UK, the following institutions participate in the Network: the Parliamentary and Health Service Ombudsman; the Northern Ireland Ombudsman; the Local Government Ombudsmen for England; the Scottish Public Services Ombudsman; the Public Services Ombudsman for Wales. The Public Services Ombudsman of Gibraltar is also a member of the Network.

Conclusion

Administrative challenges exist and democratic impact has been restricted, but the EP elections and the ECI are potentially important opportunities for UK citizens to influence EU policy and to engage directly with the EU institutions of the European Parliament and the Commission, which are not otherwise indirectly legitimised via Member State governments. A key challenge in the UK is to address issues of communication relating to EU level democracy to increase the effectiveness of UK citizen understanding and participation. These democratic opportunities are beneficial if the EU is to continue to exercise exclusive and shared competences, and they

⁴¹ Spain and France have altered their identification requirements, and Luxembourg has allowed residency to be the basis for supporting an ECI proposal.

⁴² For more see Nikos Vogiatzis (2014) 'Communicating the European Ombudsman's Mandate: An Overview of the Annual Reports' 10 *Journal of Contemporary European Research* 105.

⁴³ See: <http://www.ombudsman.europa.eu/en/atyourservice/enoinroduction.faces>.

should be strengthened to reflect the powers of the EU and to ensure that UK citizens are provided with a more effective voice in the political process at EU level.⁴⁴

⁴⁴ On this point in relation to subsidiarity see for example, MacCormick, N, "Sovereignty, Democracy and Subsidiarity", in *Democracy and Constitutional Culture in the Union of Europe*, Bellamy, R, Bufacchi, and Castiglione, D (eds) Lothian Foundation Press 1995

Review of the Balance of Competences

Voting

A response from New Europeans

July 2014

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Review of the Balance of Competences: Voting

Summary

New Europeans is a membership association seeking to represent the views of citizens of one EU member state living in another. Our concerns about the balance of competences with respect to voting cover representation, the franchise and the voter registration process.

1. It takes ten times as many EU citizens to elect a single MEP in France, the United Kingdom, Germany, Italy, Spain and Poland as it does in Luxembourg and Malta. We believe the UK government should press for a fairer system that limits the relative over-representation in the EP of citizens of smaller member states compared to those of larger member states. We see nothing wrong in setting the minimum number of MEPs of any member state at three.

2. Only some 23,000 British citizens resident in other EU member states are registered on the UK electoral roll to vote in UK national and European elections. We find this figure, representing just 1% of Brits living on the continent, to be shockingly low. This is the least represented group on the UK electoral register – a state of affairs that merits urgent remedial action. We urge the government to invite the Electoral Commission to examine why this should be so and to identify how the problem can be addressed.

3. We call on the UK government to take action to facilitate around two million British citizens resident in other EU countries voting at European elections in the UK if they so wish and to ensure that their views are properly represented in the European Parliament. We urge the UK government to consider establishing a separate “regional” constituency with up to three MEPs from the UK’s quota to represent their interests.

4. In the absence of a uniform proportional system of voting across the UK in European elections, we urge the government to introduce an open list system in England, Scotland and Wales (Northern Ireland already having one by virtue of its use of the STV method of voting) and to press for the same to be made a requirement across the EU – including, if the procedure becomes entrenched, for the choice of *spitzenkandidaten* by European political parties.

5. We seriously question the justification of any time limit after which British citizens resident abroad lose their entitlement to vote in the UK for both Westminster and European elections on the grounds that these “overseas” voters have over time seen their connection with the UK diminish. The fact that they often draw pensions and pay taxes in the UK is sufficient justification to argue that that connection is in

practice maintained. We urge the UK government to invite Westminster to abolish the 15-year time limit. A pan-European arrangement might be pursued in order to ensure reciprocity between member states and fairness as between all EU citizens.

6. The apparently arbitrary nature of UK parliamentary decisions on who should enjoy the vote for a particular referendum gives the appearance of legislators adjusting the franchise to suit their preferred outcome. We believe it wrong that some EU citizens residing in the UK (Irish, Maltese and Cypriot) should have enhanced voting rights over other EU citizens living in the UK, particularly when the issues at stake touch on matters directly affecting EU citizenship. We call upon the UK parliament to iron out these discriminatory anomalies – by extending the franchise rather than withdrawing it.

7. We believe it essential for the UK government to do much more to identify and engage with the roughly 800,000 currently unregistered non-British EU citizens residing in the UK so as to get them registered on the UK electoral roll. Irrespective of where they vote in European elections, there is everything to be gained by their voting in local elections held in the UK.

8. The organisation of the two-stage voter registration process for non-British EU citizens in the UK is very confusing and has, we contend, resulted in hundreds of thousands of EU citizens being denied a vote in the European elections. We received reports from many non-British EU citizens who went to the polling stations on 22 May 2014, expecting to be able to vote in both local and European elections, only to be told that they were allowed only to vote in local elections – some erroneously. We recommend that non-British EU citizens (including Irish, Maltese and Cypriot) be registered for local and European elections in the normal way, without a requirement for the UC1 declaration form to be submitted in advance. They should instead be required to sign a UC1 form at the time of voting declaring that they have not voted and will not vote anywhere else. Only then should their vote be validated by officials.

9. We urge EU member state governments to look collectively at how procedures to prevent electoral integrity and double voting could be simplified and streamlined.

10. We have considerable concerns about the “identifying information” requirements under Individual Electoral Registration which we believe will be significantly harder for non-British EU citizens and British nationals resident abroad to fulfil. The UK government should make the requirements for Individual Electoral Registration better known to and easier to fulfil for non-British EU citizens and British citizens resident in other EU member states. In particular, it should be made much clearer that non-possession of a National Insurance number is not a barrier to being able to vote in local and European elections in the UK. A more pro-active campaign should be initiated to alert new arrivals in the UK from other EU countries of the requirement to register and how this can be done.

11. We believe that Regulation (EU) 1179/2011 on the European Citizens' Initiative is too burdensome for ordinary citizens and should be revisited to make the process more accessible. While we are broadly content with the long-established procedures for petitioning the European Parliament and for complaining to the European Ombudsman, we note that the absence of UK legislation on these procedures correlates with the low take-up of these rights by citizens in the UK. We urge the UK government to bring these rights to greater public attention.

Review of the Balance of Competences: Voting

A response from New Europeans

Introduction

New Europeans is a civil society initiative promoting the value and values of EU citizenship. Our aim is to develop the notion of European citizenship across three critical areas:

- by promoting awareness of the voting rights of non-national EU citizens, including the right to vote in local and European elections and encouraging non-national EU citizens in any member state to register and to vote in these elections;
- by facilitating participation of non-national EU citizens in the societies in which they live through volunteering and other forms of active citizenship;
- and by providing a platform for all EU citizens to contribute to the future construction of Europe through workshops, conferences and by opening a space for such discussion and debate.
-

New Europeans is a membership association with membership open to all who subscribe to our mission statement⁴⁵. Our membership embraces all EU citizens including non-British EU citizens living and working in the UK, British citizens living in other EU member states, and non-national EU citizens living in any member state. From a standing start in August 2013, New Europeans has achieved 750 e-members, over 3,600 Twitter followers and 2,250 Facebook followers in its first year. The New Europeans website now attracts some 2,500 new visitors per month.

V!V!V! Campaign

In February 2014, with the help of a grant from the Open Society Initiative for Europe, New Europeans launched a four-month voter registration campaign with the aim of reaching out to 2.5 million non-British EU voters ahead of the local and European elections held in the UK on 22 May.

Promoted under the tagline ‘V!V!V!’ (Vote! Vote! Vote!), the initiative set out to raise awareness of the right to vote among non-British EU citizens. We called our campaign V!V!V! to emphasize the three stages: 1) register to vote; 2) make the declaration that you will only vote in the UK; and 3) go out and vote.

⁴⁵ <http://neweuropeans.net/our-mission-statement>

The campaign was supported by print material and an intense targeted social media campaign. New Europeans released a letter in twenty European languages making people aware of the need to register to vote. We produced over 10,000 leaflets, adapted from the European Parliament communications material, to convey registration messages and to make it easier for EU citizens to register; these were dropped in significant locations across London. We held ten e-hustings on twitter; each session lasted 45 minutes and an MEP candidate was available for a Q&A session mediated by New Europeans.

Voting

Our concerns on **voting** fall into three broad categories.

- **Representation** – the distribution of MEPs and the relative under-representation in the European Parliament of EU citizens from larger member states; the representation of British nationals living in other EU countries; and the closed list system in most of the UK.
- **Franchise** – restrictions on the eligibility of EU citizens to vote in elections and referendums held in the UK and in other EU countries
- **Voter registration process** – including electoral integrity and administration of elections

Relative under-representation in the European Parliament of EU citizens from larger member states

As EU citizens, we believe that it is right in principle to get as close as possible to a situation where the vote of each EU citizen across the 28 member states carries equal weight or, in other words, where the distribution of MEPs is broadly the same across the entirety of the EU.

The table at Annex illustrates how citizens from larger member states including the UK are relatively under-represented in the EP compared to citizens from smaller member states. In a situation where free movement of people is integral to the functioning of the EU and where all residents of any member state contribute in some measure (eg through VAT as well as through income tax) to the financing of the EU, we believe that it is right to determine voting weight on the basis of resident population rather than on citizens of each member state. So immigrant populations, whether or not originally from the EU, are rightly included in the equation.

While we are sympathetic to the desire of smaller member states to have a minimum number of MEPs and hence for a system of degressive proportionality in the distribution of MEPs, we believe that this is more pertinent to voting weights in the Council of Ministers than in the European Parliament.

It seems wrong to us as EU citizens that it takes ten times as many voters to elect a single MEP in France, the United Kingdom, Germany, Italy, Spain and Poland as it does in Luxembourg and Malta. This denies influence in the European Parliament (eg through having the representatives they elect act as Vice Presidents, Committee Chairs, Group leaders, rapporteurs etc) to citizens in the former group of countries. We believe this contributes massively to the disconnect between citizen and elected representative in the larger member states and so to voter disengagement and the democratic deficit.

Within the UK, the problem is acute within England and Scotland, and to a lesser extent in Wales. So we are astonished that “the UK Government is content with the current distribution of MEPs”. We believe the UK government should press for a fairer system that limits the relative over-representation in the European Parliament of citizens of smaller member states compared to those of larger member states. We see nothing wrong in setting the minimum number of MEPs of any member state at 3; Northern Ireland’s distinctive and fractious political culture has thrived in the EP on this number of MEPs.

Representation of expat British nationals living in other EU countries

The FCO use the figure of 2.2 million British nationals working and/or living in other EU member states or working (the figure was derived from an IPPR study for the FCO’s Consular Directorate). Mike Gapes MP told the House of Commons in November 2013 that only some 20,000 British nationals resident in other EU countries were included on the UK’s electoral register, a figure subsequently revised to 23,366⁴⁶. Even taking into account the 15-year rule (see below) and the ability of British nationals abroad to vote in local and European elections in their host country, we find this figure, representing around just 1% of Brits living on the continent, to be shockingly low. This is the least represented group on the UK electoral register – a state of affairs that merits urgent remedial action. We urge the government to invite the Electoral Commission to examine why this should be so and to identify how the problem can be addressed.

⁴⁶ Cross-Party Group on Overseas Voters Report Making Votes Count, March 2014 (<http://www.hansardsociety.org.uk/wp-content/uploads/2014/03/Overseas-Voters-Report.pdf>)

We consider the franchise issues below (eg the 15-year rule as it applies to European elections). We do not advocate urging Brits abroad to vote in the UK for European elections in preference to their host countries; nor do we advocate the opposite. But we note that a large proportion of such Brits pay taxes to the UK exchequer and/or draw their pensions in the UK. They also depend on the British political parties to work to maintain or reform the free movement rights which they enjoy by virtue of EU citizenship. So they have good reason to vote for the candidates of British political parties if they wish and if they possibly can. We call on the UK government to take action to facilitate their doing so in order that their views are properly represented in the European Parliament.

The fact that so few attempt to register to vote in the UK points to serious flaws both in the registration and voting process (eg in postal and proxy vote procedures) and in the representation of their views in the EP. In terms of representation of British citizens resident in other EU countries, we urge the UK government to consider establishing a separate “regional” constituency with up to three MEPs from the UK’s quota to represent the interests of around 2 million Brits resident in other EU member states.

This might be a variation on the French model of reserving 3 of its MEP seats for a French Overseas territories constituency (although this does not embrace French citizens in other EU countries), and of reserving 11 seats in the National Assembly to *Français établis hors de France* (including in other EU countries). On size grounds alone, whether or not they choose to vote in the UK, we believe that British nationals resident in other EU countries deserve a British voice in the European Parliament and for their views to be debated within and advocated by the British political parties. On grounds of practicality, we believe it justified to carve out a separate constituency for them (as well as for voters in Gibraltar who share no affiliation with the South-West region of England) with distinctive registration and voting rules so that they can both register and vote online in a way that minimizes any risk of their also voting in their host country.

Open and Closed Lists

Council Decision 2002/772/EC requires member states to adopt a proportional voting system for elections to the European Parliament but allows them discretion as to whether to use an open or closed list system. Several member states successfully use open list systems, enabling voters to “bump up” or “relegate” individual candidates on a particular party’s list. In our view, this increases the connection between the voter’s choice and the outcome; it also gives added value to any vote cast. Closed list systems or the absence of primary elections (eg in the nomination of *spitzenkandidaten*) have correspondingly less value and result in the opposite effect of increasing voter disengagement or alienation. Evidence cited by the Electoral

Reform Society in their report *Close The Gap*⁴⁷ suggests that voters in countries with open list systems are 20% more likely to be contacted by candidates or parties, that 15% feel better informed, and that they are 10% more likely to turn out⁴⁸.

We consider it anomalous and unfair that the UK employs both systems. The STV system used in Northern Ireland is equivalent to an open list system because voters are able to distinguish in their choice between individual candidates. So the choice of a voter in Northern Ireland is worth more than the choice of a voter in England. In the absence of a uniform proportional system of voting across the UK in European elections, we urge the government to introduce an open list system in England, Scotland and Wales and to press for the same to be made a requirement across the EU – including, if the procedure becomes entrenched, for the choice of *spitzenkandidaten* by European political parties

The Electoral Franchise in the UK

The interplay of the EU and UK rules governing the electoral franchise in the UK has led to anomalies and unfairness to non-national EU citizens that we believe need to be urgently addressed, principally by the UK government.

Recognising that this review of the balance of EU competences is only designed to address EU or shared competences, we shall endeavour to avoid passing judgement on matters which have to do purely with UK competence such as the franchise for national “Westminster” elections. But strict adherence to this principle is impossible since the UK compiles annually a single electoral register which is used as a basis for determining the franchise for local, Westminster and European elections and referendums (though with “bolt-ons” as appropriate, for example, covering overseas voters and members of the House of Lords).

New Europeans strenuously upholds the citizenship rights of EU citizens including their right to vote in local and European elections. We therefore advocate all EU citizens being able to vote in European parliamentary elections with equivalent ease and equivalent effect wherever they happen to vote in the EU. Broadly, our members are very exercised by two sets of issues:

- a) legal and practical obstacles put in the way of the **enfranchisement of British citizens living in other EU countries** on the electoral registers of the UK and of host countries.

⁴⁷ <http://www.electoral-reform.org.uk/images/dynamicImages/file/Close%20the%20Gap%20FOR%20ONLINE%204.pdf>

⁴⁸ Could *changing the electoral rules fix European parliament elections?* Hix, Simon and Hagemann, Sara (2009)

- b) legal and practical obstacles put in the way of the **enfranchisement of non-British EU citizens on the UK electoral register** and discriminatory treatment in the UK of different types of EU citizen.

British citizens abroad: legal obstacles

The 15-year time limit on the eligibility of British citizens deemed to be “long-term overseas residents” merits a full debate in itself. Noting that the UK Parliament has adjusted the time limit from 5 years to 20 years and most recently to 15 years, we seriously question the justification of any time limit for both Westminster and European elections on the grounds that these “overseas” voters have over time seen their connection with the UK diminish. The fact that they often draw pensions and pay taxes in the UK is sufficient justification to argue that that connection is in practice maintained.

We agree with those proposing an amendment to the Electoral Registration and Administration Bill in the House of Commons in June 2012 who argued that: *“For a democracy as ancient as ours, it is not an exaggeration to say that it is a stain on our democratic principles that our citizens are placed at such a disadvantage when they have moved abroad compared with citizens from those other countries. Her Majesty’s Government is very happy to collect tax from most of the enormous number of people involved, but denies them the vote.”*

The 15-year time limit has the anomalous effect of leaving many British nationals resident in other EU member states unable to vote in any member state’s national elections. This contradicts the notion of EU citizenship in the Treaties as well as the notion of “no taxation without representation”.

While the franchise of national elections is beyond the scope of the current review, there is an implication in the UK Parliament’s action that British citizens who have become long-term overseas residents ought to become citizens of their host country. This is at odds with the principle of EU citizenship and of free movement within the EU such that a national of one member state may reside freely in any other. They are not “overseas” in anything other than a purely geographical sense; they are at home in Europe. New Europeans point to the value to Britain and other European states of their extensive diasporas, and consider that governments are wasting important opportunities by not tapping into this major “soft power” resource, including by putting obstacles in the way of their voting in their country of origin.

There is a perhaps understandable fear among MPs at Westminster that a sudden influx of votes cast by British citizens resident in other member states could materially influence the outcome in any particular UK constituency. That could be an argument for adopting the French model of reserving seats in the National Assembly for French

citizens resident abroad (see above). In the case of the European elections, the argument scarcely applies since the UK's regional constituencies are so big.

We see absolutely no justification for confining the franchise for European elections to those British citizens who have a residential connection to the UK and who are therefore deemed to be most directly affected by laws emanating from Westminster. So-called "long-term overseas residents" are equally affected, if not more so, by laws emanating from Brussels, shaped by UK government ministers and UK MEPs. Their experience of free movement gives them added interest and experience in the matter; their voice is all the more worthy of being heard by British lawmakers in Brussels.

For example, a British citizen living in, say, France who is denied his/her employment rights (eg to practice his/her trade in France) by the French authorities is more likely to seek to secure the assistance of British MEPs than French MEPs in supporting his/her claims at a political level.

We therefore urge the UK government to invite Westminster to abolish the 15-year time limit, at least in respect of European elections and, though it falls outside the scope of this review, in national elections as well. If necessary, a pan-European arrangement might be pursued in order to ensure reciprocity between member states and fairness as between all EU citizens.

British citizens abroad: practical obstacles

Many British citizens resident in other EU member states tell us that it is well nigh impossible for them to vote in local and European elections held in the member state in which they reside⁴⁹. "Expatriate" communities are often far smaller in absolute terms in the majority of member states (particularly the new member states and those with a population of under 10 million) and the procedures for non-national EU citizens to register to vote correspondingly opaque.

Unlike in the UK, many of these countries do not use a single electoral roll; there is no registration process as such; instead there is a process which involves proving residence status to the local police on unconnected grounds; and there is also massive ignorance of EU/national rules on the part of national and local election officials which results in expatriates being unjustly turned away from polling stations. Moreover, proxy and postal votes are not allowed in several member states; so a long-term British resident in, say, the Czech Republic or Slovakia who may for unavoidable business reasons be absent from those countries on polling day for the European elections is

⁴⁹ See for example Votes for Expat Brits Blog (<http://votes-for-expat-brits-blog.com/2014/06/30/two-to-one-in-favour-of-continued-eu-membership/>)

denied the opportunity to vote anywhere. EU citizens are by definition mobile, and that mobility includes short-term visits away from their country of residence⁵⁰.

Added to this are the flawed arrangements currently in place by virtue of Council Directive 93/10/EU for ensuring electoral integrity, ie that a voter does not vote in both his/her country of origin and in his/her country of residence in European elections. These arrangements uphold a valuable point of principle (though it is often overlooked in other aspects of voting in the UK, eg as regards students who are often registered both at their university and at home). But it is applied with vastly differing degrees of diligence across 28 member states, and tends to dissuade EU citizens outside their country of origin from voting rather than to encourage them. We urge EU member state governments to look collectively at how procedures could be simplified and streamlined while upholding the principle of acting to prevent double voting (see below).

Non-British EU citizens in the UK: legal and practical discrimination

We are concerned that the cumulative impact of different pieces of UK legislation amounts to discrimination against EU citizens from certain EU member states residing in the UK when it comes to voting in UK elections and referendums.

We understand the origins of and the rationale for UK laws enabling Irish and qualifying Commonwealth citizens residing in the UK to vote in all elections and referendums held in the UK. We do not advocate withdrawing the vote from any category of citizen which currently enjoys the right to vote in the UK. But we do urge that the UK Parliament address the anomalous situation that results therefrom.

It is discriminatory that, for example, Irish, Maltese and Cypriot citizens residing and paying taxes in the UK should enjoy voting rights denied to French, Polish, Dutch or Lithuanian citizens residing and paying taxes in the UK (and this includes the absence of any check on the former category to prevent double voting in European elections);

It is discriminatory that, for example, Australian, Malaysian or Nigerian citizens residing in the UK should enjoy voting rights on European issues denied to French, Polish, Dutch or Lithuanian citizens residing and paying taxes in the UK – as would have been the case if Mr Wharton's Private Member's Bill on an EU referendum had been adopted into law;

⁵⁰ New Europeans are partners with *European Citizens Abroad* (<http://www.europeancitizensabroad.eu>) and cooperate with *Europeans throughout the World* (<http://www.euromonde.org>) who have similar concerns.

Given Gibraltar's unique status in the European Union which means that it does not participate in important aspects of EU policy such as the requirement to levy VAT⁵¹, it is discriminatory that Mr Wharton's Private Member's Bill extended the franchise in any future EU referendum to Gibraltar citizens who neither reside nor pay taxes in the UK but denied them to, for example, Italian, Spanish or Latvian citizens residing and paying taxes in the UK and who are EU citizens in the fullest sense.

We note that the franchise for the Devolved Administrations is the same as that for local elections. This appears to be the strongest rationale for non-British EU citizens residing in Scotland being able to vote in the forthcoming referendum on Scottish independence, the outcome of which could affect their rights and future status in Scotland. That being the case, it becomes unfairly anomalous for non-British EU citizens residing in the UK to be denied the vote in any EU referendum – an issue which has the potential significantly to affect their existing rights and future status within the UK.

We note too that the UK Parliament has permitted non-British EU citizens to vote in other referendums, as well as in PCC and in mayoral elections, but that it did not permit them to vote in the 2012 AV referendum. The apparently arbitrary nature of UK Parliamentary decisions on who should enjoy the vote for a particular referendum gives the appearance of legislators adjusting the franchise to suit their preferred outcome.

We believe it wrong that some EU citizens residing in the UK should have enhanced voting rights over other EU citizens living in the UK, particularly when the issues at stake touch on matters directly affecting EU citizenship. We call upon the UK Parliament to iron out these discriminatory anomalies – by extending the franchise rather than withdrawing it.

We do not take a view here on whether non-British EU citizens should be allowed to vote in UK national elections (we are separately consulting our members on this) except insofar as to note that:

- (a) it is discriminatory that Irish, Maltese and Cypriot citizens are able to vote in UK national elections while other non-British EU citizens are not; and
- (b) while some EU member states outlaw dual citizenship, EU citizens confront different degrees of difficulty in acquiring citizenship, and so voting rights, in their country of residence. It is easier for some to acquire British citizenship

⁵¹ Gibraltar has a unique status within the EU. Gibraltar has been in the EU since 1973 as part of the UK's membership (by virtue of Art 355 of TFEU). EU law is applicable in Gibraltar. However, its membership is distinct to that of the UK as Gibraltar is excluded from four areas of EU policy: Customs Union, Common Commercial Policy, Common Agriculture Policy, Common Fisheries Policy and requirement to levy VAT.

than it is for others who may be required to abandon citizenship of their country of origin. In view of the rapid rise in the number of mixed nationality families in the UK and elsewhere in Europe, it seems to us appropriate to reach a degree of commonality at EU level over national citizenship rights.

New Europeans points to two sets of evidence showing that practical barriers get in the way of non-British citizens exercising their voting rights in UK elections.

The Electoral Commission's *Survey of Great Britain's Electoral Registers 2011* found that, while the electoral register as a whole was 84% complete, only 56% of non-British EU citizens were registered. This makes the cohort of non-British EU citizens among the least represented on the UK electoral register.

Research carried out by Dr Susan Collard of the University of Sussex⁵² supports the finding that NNEUCs (non-native EU citizens) living in the UK are relatively under-represented on the electoral register nationwide as compared with the population at large.

Registered NNEUCs in the UK in 2011 as % of total electorate

December 2011	NNEUCs registered on electoral roll	Total electorate at local elections	NNEUCs as % of local electorate	Estimated number of NNEUCs resident	% of NNEUCs registered
UK	1,298,909	47,383,500	2.74	2,081,000	62.4
England	1,192,717	39,825,800	2.99	1,835,000	64.9
Wales	24,125	2,322,100	1.03	43,000	56.1
N.Ireland	14,118	1,227,121	1.15	41,000	34.4
Scotland	67,949	4,008,411	1.69	139,000	48.8

ONS Annual Population Survey / Labour Force Survey, March 2011

Taken together with the Electoral Commission survey's finding that 8.5 million people in the UK were unregistered in April 2011, her research suggests that some 800,000 of these (nearly 10%) were non-British EU citizens.

⁵² Dr Susan Collard is Senior Lecturer in French Politics and Contemporary European Studies at the Department of Politics at the University of Surrey. She has researched and written extensively on the voter registration of non-native EU citizens in the UK and France

Of particular concern is the cohort of 18-24 year olds, which includes much of the student population, in which non-British EU citizens are heavily represented.

Accordingly, New Europeans believes it essential for the UK government to do much more to identify and engage with the roughly 800,000 currently unregistered non-British EU citizens residing in the UK so as to get them registered on the UK electoral roll. Irrespective of where they vote in European elections, there is everything to be gained by their voting in local elections held in the UK.

We were shocked to see how little effort on the part of UK authorities was put into encouraging non-British EU citizens to get registered, and to sign the UC1 declaration, ahead of the local and European elections held in the UK on 22 May 2014.

New Europeans has received representations from non-British EU citizens who were denied the vote in the European elections which took place on 22 May 2014.

We alerted the European Commission (DG Justice) to this immediately after those elections and, at their prompting and after consulting community groups, have been conducting a "Vote Denied" inquiry. The results of our inquiry are not yet ready. But initial findings show the registration process in the UK for EU citizens ahead of the recent European elections to have been both overly complex and confusing.

It was complex, because as well as signing up for the electoral register in the usual way, EU citizens were also required to sign a separate declaration (UC1) form stating that they would not be voting in their home member state.

The concept of an electoral register (as opposed, for example, to a register of residents kept by most local councils in other EU member states) is unfamiliar to many EU citizens who come to live in Britain. Nevertheless, it is part and parcel of living in Britain, and in practice 56% were on the register in 2011 (compared to 84% for the population as a whole).

While that proportion is far too low, the issue we wish to highlight is that only a small proportion of the 56% registered on the electoral roll and automatically entitled to vote in local elections were able to vote in European elections as well.

The reason for this lies in the fact that, in the UK, non-British EU citizens (though not Irish, Maltese or Cypriot nationals) have to complete a second stage of the process to be able to vote in European elections. This entails their signing a second form, sent them by local Electoral Registration Officers once every five years shortly before European elections are held, which is not a registration form but rather a declaration confirming that they will not be voting in their home member state as well (as many are otherwise entitled to do). This is intended to ensure electoral integrity (see above).

We do not question the need for this second step; EU rules are right to require that no EU citizen should have more than one vote in European elections. There is a risk that, were it not for this second step, then some citizens would indeed vote in two places, as was the case in Germany, for example. The editor-in-chief of *Die Zeit*, an Italian national who is resident in Germany, voted in both Germany and Italy. He publicised the fact that he had done so in order to expose the flaws in the system and is now under investigation by the state prosecutor.

However, the way in which this two-stage process is currently organised in the UK is very confusing and has, we contend, resulted in hundreds of thousands of EU citizens being denied a vote in the European elections.

The fact that a separate form (the UC1) is required to make the declaration creates the first opportunity for things to go wrong - and they frequently appear to do so.

The UC1 form is sent to EU citizens who are already on the electoral register for local elections by their local EROs. Although the UC1 form is not a registration form it is often talked about as if it were.

We believe that many non-British EU citizens, unfamiliar with the process of registering to vote, may simply have ignored the form, believing correctly that they were already registered on the electoral roll, but in ignorance of the fact that this was an insufficient qualification for being allowed to vote in European elections held on the same day and in the same place.

Completing the UC1 form converts the registration of an EU citizen from a “g” to a “k” on the electoral register.

We have reports from many non-British EU citizens who went to the polling stations on 22 May, expecting to be able to vote in both local and European elections, only to be told that they could only vote in local elections.

We also have evidence of instances where non-British EU citizens challenged this refusal, asked for checks to be undertaken, and were subsequently allowed to vote in the European elections because the ERO was able to confirm that the UC1 form had been returned although the published register incorrectly indicated that the individual concerned was identified as a “g” and not a “k”.

To compound the confusion, in 2014 the Electoral Commission issued a new form called the “European elections registration form” which could be used by non-British EU citizens to register and to make the declaration at the same time.

It is not clear why the Electoral Commission did this as it contradicted the procedures adopted by local EROs. However, when we asked EROs for advice we were simply referred to the Electoral Commission.

By explicitly calling the new form a “registration form”, the Electoral Commission sowed further confusion. Those non-British EU citizens who were already correctly registered did not understand why they were being asked to register again.

Official guidance states that once EU citizens complete the form it is valid for 12 months. We note, however, that this may not be compatible with Article 9 para 4 of Council Directive 93/109/EC (providing the legal basis for European elections) since it constitutes removal without consent.

At the invitation of the European Commission, we are now working with community groups to gauge the extent of the problem. We have produced a questionnaire in collaboration with these groups and have been invited to make our findings available to the House of Commons Political and Constitutional Reform Committee to inform an on-going inquiry. We have also shared our questionnaire with the Electoral Commission at their request.

On the basis of individual cases which we have already forwarded to DG Justice, we understand that the European Commission may launch an inquiry. We hope that this will lead to major reform of electoral registration procedures in the UK and other EU member states ahead of future European elections.

New Europeans have a specific recommendation which we believe would go a long way to resolving the problem in the UK in 2019 and subsequently.

Our proposed solution is for the UC1 declaration form to be signed at the time of voting and not as part of a two-stage registration procedure.

We recommend that non-British EU citizens be registered for local and European elections in the normal way, without a requirement for the UC1 Declaration Form or Electoral Commission Registration Form (European elections) to be submitted in advance. They should all appear on the register with the letter “g” to indicate that they are not eligible to vote in UK national general elections. But the letter “k” should no longer be used.

When non-British EU citizens (including Irish, Maltese and Cypriot) arrive at the polling station (or receive their ballot papers by post) for European elections, they should be required to sign a UC1 form at the time declaring that they have not voted and will not vote anywhere else (as the European elections are held over four days). Only then can their vote be validated by officials.

If any EU citizen does vote twice in the elections, this should be considered an instance of electoral fraud and punished accordingly with a substantial fine in both member states. But the risk of this happening and remaining undetected must be weighed against the current situation where hundreds of thousands of EU citizens are likely to have been disenfranchised from the European elections altogether.

It is too soon to say how Individual Electoral Registration, introduced in June 2014, will affect non-British EU citizens in the UK in practice. But New Europeans has considerable concerns about the “identifying information” requirements which will be significantly harder for non-British EU citizens and British nationals resident abroad to fulfill.

For example, EU citizens who are studying in the UK or who are married to British nationals but who have no intention of working in the UK will not have a National Insurance number. The online Voter Registration form gives the impression that without a National Insurance number a citizen cannot register to vote.

The guidance also indicates that most people who are already registered to vote will be registered automatically under the new system. However, some people will need to take action to join the new register. To take one example:

“The [Richmond upon Thames] Council is writing to everyone listed on the most recently compiled Electoral Register to tell you whether you are on the new register, or whether you need to take action. Letters are being posted from 25 July. Look out for yours; it will tell you what to do. Please respond to the letter if you are asked to.”

But if a non-British EU citizen was not on the Register before June 2014, no letter will be sent out and he/she will not know of the procedure. And so the cohort of non-British EU citizens who, until now, are only 56% represented on the electoral register in the UK is likely to become even less represented on the register in future.

New Europeans believe that, as a matter of urgency, the requirements for Individual Electoral Registration must be made better known to and easier to fulfill for non-British EU citizens and British citizens resident in other EU member states. In particular, it should be made much clearer that non-possession of a National Insurance number is not a barrier to being able to vote in local and European elections in the UK. And a more pro-active government campaign should be initiated to alert new arrivals in the UK from other EU countries of the requirement (and, of course, it is a legal requirement in the UK) to register and how this can be done.

Wider forms of democratic engagement

New Europeans are generally disappointed by efforts so far to promote awareness of EU citizenship rights, especially electoral rights, and to promote constructive ways to enable EU citizens living in another EU country fully to participate in the democratic life of the EU. We believe that all EU governments should do more to tap into the soft power resource of their respective diasporas.

Although New Europeans is too young to have been able to promote a European Citizens’ Initiative, we have been in touch with many organisations across Europe who

have. We believe the procedure is not working in the spirit intended by Article 11 TEU.

- The requirement for one million signatures to be collected from at least seven member states within one year is too onerous. In practice, only well-resourced pan-European organisations (such as multinational corporations, trades unions and churches) are able to meet a requirement which is far beyond the reach of ordinary citizens⁵³;
- Procedures established by the European Commission for registration of proposed citizens' initiatives are poorly resourced and so obstruct the timely collection of signatures;
- Procedures for verification of signatures by member state authorities are inconsistent if not arbitrary across the member states.

New Europeans believe that Regulation (EU) 1179/2011 should be revisited to make the process more accessible to citizens.

We are broadly content with the long-established procedures for petitioning the European Parliament and for complaining to the European Ombudsman. But we note that the absence of UK legislation on these procedures correlates with the low take-up of these rights by citizens in the UK. This is regrettable, and we urge the UK government to bring these rights to greater public attention.

Overall, New Europeans considers that there is still a very long way to go before the voices of EU citizens are adequately heard and represented in the EU decision-making process.

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⁵³ Only 3 out of 22 registered ECIs have attained sufficient signatures to date

Annex: Votes required to elect an MEP in different EU member states

	2013 Population (Residents)	No of MEPs	Populatio n per MEP
Germany	80,523,746	96	838,789
France	65,633,194	74	886,935
United Kingdom	63,896,071	73	875,289
Italy	59,685,227	73	817,606
Spain	46,704,308	54	864,895
Poland	38,533,299	51	755,555
Romania	20,020,074	32	625,627
Netherlands	16,779,575	26	645,368
Belgium	11,161,642	21	531,507
Greece	11,062,508	21	526,786
Czech Republic	10,516,125	21	500,768
Portugal	10,487,289	21	499,395
Hungary	9,908,798	21	471,848
Sweden	9,555,893	20	477,795
Austria	8,451,860	18	469,548
Bulgaria	7,284,552	17	428,503
Denmark	5,602,628	13	430,971
Finland	5,426,674	13	417,436
Slovakia	5,410,836	13	416,218
Ireland	4,591,087	11	417,372
Croatia	4,262,140	11	387,467
Lithuania	2,971,905	11	270,173
Slovenia	2,058,821	8	257,353
Latvia	2,023,825	8	252,978
Estonia	1,324,814	6	220,802
Cyprus	865,878	6	144,313
Luxembourg	537,039	6	89,507
Malta	421,364	6	70,227
Total	505,701,172	751	673,370
England	53,500,000	60	891,667
Scotland	5,300,000	6	883,333
Wales	3,100,000	4	775,000

Northern Ireland	1,800,000	3	600,000
Total	63,700,000	73	872,603

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

1. The franchise: The reputation of the UK as a “democratic” country is being destroyed by its obdurate refusal to allow its expatriate citizens abroad more than 15 years to vote in national and EP elections. It is nonsense to pretend that those abroad for more than 15 years, and who may move fairly frequently, will have lost contact or take a much reduced interest in their home country. Many have family and interests in the UK, many receive their income from the UK.

2. The relevant EU Directive allows the CHOICE of voting in EP elections in the EU country of residence OR in the home member state. This is denied to British citizens abroad for more than 15 years, when many would vastly prefer to have MEPs with a legitimate interest in their country’s relationship with the EU.

3. It would help both the EU and the member states, including the UK, to have a uniform procedure throughout the EU, rather than asking each member state to organise EP elections, particularly as this currently allows NON EU CITIZENS TO VOTE FOR MEPs (Commonwealth citizens) and further there is no control of possible double voting by Maltese and Cypriot citizens.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

An enormous challenge is that of reaching electors and informing them, particularly those abroad. While to a large extent the costs involved are covered by HMG within the UK, are they also covered beyond the UK?

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

The EC's Citizenship reports have worked well – well prepared, gathering pertinent input from EU citizens not just within the EU but world-wide, with excellent input, also from affected citizens, at the Commission and Parliamentary hearings and meetings. Would that HMG would listen!

As far as the UK is concerned, it is absolutely contradictory to worry about getting registered voters interested in voting and at the same time prevent those citizens who ARE interested from even registering if they have been abroad for more than 15 years. The UK continues to turn a deaf ear to European initiatives such as the recent policy declarations by Vice-President Mme Reding and the EESC in favour of allowing all citizens the vote for their lifetimes.

It seems to be mainly the UK that is so deaf and also inconsistent – see the example of the UK's successful “defence” against Harry Shindler in the European Court of Human Rights, referred to in the Call for Evidence, in which there was a statement by a minority of out-voted judges about the unfairness and unreasonableness of the judgement. The UK then went on to award Harry Shindler an MBE for his services to the country!

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

1. European Citizens' Initiatives: the procedures for these must be simplified and made uniform across the EU. It is harmful and over-complicated to get each member state to administer their part differently. The current arrangements only allow one to be organised at huge expense and difficulty.

2. EP petitions: these should remain much as they are – they are currently the only way to be heard at all in practice

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Coming through the above points is an over-arching principle which the UK Government and many MPs currently do not respect, though thankfully many do and have lent expatriate citizens admirable support – the respect for its citizens, the duty of care for its citizens, the respect of democratic principles.

Beyond the franchise, and partly dependent on continuing disfranchisement because those most affected cannot even vote, are the realities of frozen pensions in “non-arrangement” countries, the current plans of HMG towards abolishing national insurance and merging it with income taxes etc. These initiatives really show disrespect for the citizens abroad whom HMG is supposed to govern in an even-handed, non-discriminatory manner according to democratic principles – HMG discriminates against certain categories of UK citizens.

And real non-understanding of the realities of so many millions of citizens who have fought for the UK, also those working for UK interests world-wide, including organisations of which the UK is a member, such as even the European institutions, and whose officials are recruited AS UK citizens, who are also disfranchised after 15 years abroad.

Ombudsman Association

CALL FOR EVIDENCE ON THE GOVERNMENT'S REVIEW OF THE BALANCE OF COMPETENCES BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION

Semester 4 - Voting, Consular, Statistics

The Ombudsman Association (formerly the British and Irish Ombudsman Association) was established in 1991 and includes as members all major public and private sector Ombudsman schemes and complaint handling bodies in the United Kingdom (and the Republic of Ireland).

The Association welcomes the opportunity to respond to the Government's Review of the Balance of Competencies between the UK and the European Union. Our comments are limited to the sub-section *Wider forms of democratic engagement*, specifically: The right to complain to the European Ombudsman.

Ombudsmen help to underpin public confidence in the institutions that they cover – by providing members of the public with accessible and effective redress, and by feeding back the lessons from their work in order to help improve service delivery and complaints management for the future. In this way, ombudsmen help to reinforce democratic engagement.

The Association is of the view that there should be comprehensive ombudsman coverage, overseeing all bodies that provide public services, and there should be clear boundaries between different ombudsmen, avoiding gaps and overlaps in jurisdiction.

The European Ombudsman investigates complaints about EU institutions and agencies. It is not empowered to deal with complaints about the UK's national institutions, which fall within the jurisdiction of the relevant public sector ombudsmen in the UK. The European Ombudsman has set up a European Network of Ombudsmen that enables their office to promptly and effectively re-direct complaints that fall outside their jurisdiction to the relevant national ombudsman.

There is a clear distinction between the jurisdictions of the European Ombudsman and the national ombudsmen in the UK, without gaps or overlaps, resulting in an effective balance of competencies.

The Association supports the work of the European Ombudsman. Their crucial role in holding European institutions to account, and driving improvements in services, is an integral part of democratic accountability and it would benefit the democratic engagement between the citizens of the UK and the European Union if the role of the European Ombudsman was better known.

Response to the Government's Call for Evidence on the Government's Review of the Balance of Competences between the UK and the European Union

Semester 4 – Voting, Consular, Statistics

Thank you for the opportunity to respond to Semester 4 of the Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union. We welcome that the Government is engaging with the UK public and interested stakeholders on this important issue.

We do not intend to comment on all of the competences set out in the document. Our contribution is limited to the wider forms of democratic engagement, specifically to the right to complain to the European Ombudsman.

Our role as the Parliamentary and Health Service Ombudsman (PHSO) is to investigate complaints by individuals that government departments, a range of other public bodies in the UK, and the NHS in England, have not acted properly or fairly or have provided a poor service. We are independent, impartial, and an integral part of the administrative justice system in the UK.

In contrast, the European Ombudsman investigates complaints about maladministration by the institutions and bodies of the European Union – it is not empowered to deal with complaints made against national institutions or Member States themselves.

We believe that the current balance of competences between the European Ombudsman and the national Ombudsmen in the Member States, as set out in your Call for Evidence, works well – there is a clear distinction between the different jurisdictions and we are not aware of any imbalance of competences, conflicts or gaps that need to be addressed.

We strongly support the work of the European Ombudsman: the scrutiny that it provides is an essential element of an open and transparent European Union. This is particularly important in the current climate of widespread concern about how the European Union is affecting what happens in Member States. The European Ombudsman can act as a safeguard, holding European institutions to account, strengthening openness and transparency and driving improvements in European administration.

Parliamentary & Health Service Ombudsman

June 2014

Regional Returning Officer for the South West Region

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

The biggest issue relating to these Elections was the registration of European Electors in the UK and the operation of the Information Exchange between EU member states.

It is clear that in the SW and I suspect the rest of the UK, many thousands of EU nationals did not compete and return form EC1/ EC6. From a bit of investigatory work it seems that as the canvass had been delayed due to IER people considered that they had recently completed a form [albeit a different one] and there was no need to bother with this one. Problems abounded on Election Day with confusion over the G and K markers.

There must be a better way of handling the exchange. Why not have uniform 'cut off' date across the EU and uses a standard form containing the key information that member states require? Alternatively just scrap the system and rely on each Country to deal with persons who vote twice in accordance with their legislation?

Integrity didn't seem to be a problem with these Elections but there is a potential issue with the political parties getting involved in the postal vote application stage. Sadly at these elections one party in particular distributed PV applications which when completed were sent back to the Party who, eventually sent these on to the Local Returning Officers often just before the closing date. Many of these forms were duplicates or triplicates. A complete waste of time!

There was also an issue with regard to when the results could be announced. When pre planning the Election we worked on the basis that the polls in Italy would close at 21:00 UK time but really late in the day Italy changed it's mind and moved to 22:00 UK time.

Each EU member state should be required within 12 months of the Elections to confirm their polling hours. In addition the EU must publish the Election day for 2019 so we can all work to that date and if necessary consultation can be carried out with regard to moving Local Election dates if necessary.

Whilst the EU procured a system to deal with results this was on a country to country basis. The system needs to go right down to LRO level. This will provide a uniform system which in turn will generate more interest and provide transparency/ consistency.

Having all RROs using a mixture of systems doesn't look very joined up in this digital age!

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

A major issue this time around was the actual deposit and its payment. £5k is not an insignificant amount and could be seen as acting as a deterrent to prevent Parties/ Independents from standing.

In addition it can be quite challenge to actually pay through cash/ card/bankers draft. It would be the suggestion for future elections for bank transfers to be accepted subject to certain procedures being followed. There was also confusion over whether it was 2.5% or 5% of the votes cast which was the threshold.

The EU should be promoting candidature for these elections on an EU wide basis well in advance of the actual election day and this needs to be complemented with the EC publishing their guidance/ nomination packs etc, at an early stage as well.

Whilst candidates/ Parties in the UK are entitled to a free mailing of their election material in this day they still have to pay for the items to be printed and delivered to the distribution depot. Websites would be more appropriate together with the use of QR codes on official notices such as 'Statements of Persons/ Parties nominated etc.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

No comment.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

No comment.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Graham Richards

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

It is important that British Nationals are represented by British and thus English speaking MEPs at the European Parliament. At present British citizens now living abroad are disenfranchised after 15 years.

The EU law states:-

See pp 4.16 page 12 of the introductory notes

4.16 EU citizens can choose whether to vote in their Member State of citizenship or of residence

It is most undemocratic to retain the 15 year limit for it is in complete opposition to the spirit of European law, preventing British citizens choosing where they can vote for their chosen MEP

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

This at first sight would appear to be unrelated to the European concept but it is. The same electoral laws must apply uniformly across all 28 EU member states. Para. 4.30 of the accompanying notes raises this important issue. Concerning the recent Harry Shindler case, “the European Court of Human Rights ruled that there had been no violation of Article 3 of Protocol 1 by the UK and that the UK government had legitimately confined the Parliamentary franchise to those British citizens who had a close connection to the UK and who would therefore be most directly affected by its laws.”

British citizens who live in the other 27 EU member states know that this ruling is fallacious. For the majority the bulk of their income is derived from the UK, with many still having to pay taxes in the UK. Most of their cultural and family connections are still in the UK. Many still own a property in the UK which they pay local taxes on.

Most still listen to and watch British tv and radio stations are thus well briefed of the political situation in the UK and are also on the Internet where they are briefed instantly on line. Laws are made at Westminster which can effect them most deeply and their concerns are so wide that it would be democratically correct to consider permanent MPs for British citizens now living in the 27 EU member states and other non EU countries.

British citizens (both retired and younger working professionals) are very good ambassadors for the UK and are proud of their British origins. The idea that they should at each move of their career or in retirement that they should automatically change their citizenship is a complete nonsense and practically unworkable. Their right of free movement within the EU is stopped by losing the vote after 15 years and thus any form of political representation at Westminster.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

MEPS are elected for their “constituencies” and thus become members of a list. This might give them an impression that they should respond only to “electors” within that district. The situation concerning Gibraltar, q.v. para 4.5 page 8 of the introductory notes, being tied to the SW of England touches on this topic.

It might well be useful to link British citizens now resident in various other EU states to MEP constituencies within the UK. It would be a good idea if such MEPs were to represent British citizens in other countries within the EU. MEPs must as matter of priority to take on board the responsibilities for certain areas and the operation of EU laws and to become experts in these matters.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

The EU Parliamentary petition would appear to be useful and works. The European Citizens Advice service procedure is excellent which has been confirmed to me by other people. Regarding the UK Government petitions service, it is conceivable that even petitions only signed by a few people could be useful. However The Euro Citizen’s Initiative faces a similar hurdle to the above in needing one million signatures.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

This is most definitely a very large problem for the UK Government and its constituency politicians as it effectively stifles their interest in UK politics amongst British citizens now living abroad because of the 15 year disenfranchisement rule in having their vote taken away from them. As a matter of priority the UK Government and the political parties need to express an interest in the needs and requirements in British citizens now living in the other 27 EU member states.

Senior politicians from all political parties should visit other EU member states where there are now a large number of British citizens living, e.g. Spain, France, Ireland, Germany & Italy.

Unfortunately amongst the electorate the attitude eg British politicians is perceived as, “I want you to vote for me” rather than “I want you to help you live a better and worthwhile life”

The freedom to have a permanent vote like 22 of the other 27 EU member states allow their expat citizens to have a permanent vote for life and representation at Westminster.

**BALANCE OF COMPETENCES REVIEW
SCOTTISH GOVERNMENT RESPONSE
VOTING**

Introduction

1. Scotland is one of the few places in the EU to allow other resident EU nationals⁵⁴ to vote in our national Parliament's elections and also our local government elections. EU nationals will also have a vote in the referendum on Scottish independence which is due to take place on 18 September 2014. That tradition is long-standing in our politics; before the European Union was founded, citizens of the Irish republic were allowed to vote, as they and citizens of other Commonwealth countries still are.

2. Included among the proposals set out in the Scottish Government's white paper on independence⁵⁵ are:

- The existing Scottish Parliament would become the parliament of an independent Scotland, responsible for all matters currently dealt with at the UK (Westminster) Parliament;
- The Scottish Parliament would be elected using proportional representation, as it is now;
- The Scottish Government's proposal is that, in an independent Scotland, a newly elected independent Scottish Parliament should convene a Constitutional Convention to draft a written constitution which expresses our values, embeds the rights of our citizens and sets out clearly how our institutions of state interact with each other and serve the people.
- The Constitutional Convention could consider whether the rules on who can vote should be changed as part of Scotland's permanent written constitution.

Scotland's Relationship with the EU

3. In the event of a 'Yes' vote in the forthcoming independence referendum, the Scottish Government would seek to enter into negotiations with Westminster and EU member states to ensure that an independent Scotland achieves a smooth and timely transition to independent membership of the EU.

4. Independence would give Scotland its own voice in Europe, participating at every level in the EU policy process and ensuring that Scottish governments are able to promote and protect Scotland's national interests in EU affairs.

⁵⁴ At present, around 160,000 EU residents from other nations are currently resident in Scotland

⁵⁵ *Scotland's Future: Your Guide to an Independent Scotland* – November 2013

Allocation of MEPs in an Independent Scotland

5. As an independent member state the Scottish Government would be able to directly promote its economic and social interests and protect its citizens by participating on equal terms with all other member states in EU affairs. Scottish Ministers would participate fully in meetings of the Council of the European Union and Scotland would have increased representation in the European Parliament, thereby increasing Scotland's voice in the two legislative bodies of the EU. At present, Scotland, with a population of around 5.3 million, is represented by only 6 MEPs. This is the same number of MEPs returned by Estonia, which has a population of only 1.3 million. The Republic of Ireland (pop. 4.6 million) has 11 MEPs and Denmark (pop. 5.6 million) has 13 MEPs.

European Parliamentary Elections

Voting System

6. The requirement that all EU Member States adopt proportional representation voting systems to elect MEPs is reasonable. While it is sometimes suggested that a first past the post system creates a closer link between candidates and the electorate, equally there is strong support for a proportional system which ensures that voters are more likely to see a candidate from one of their selected party groups selected.

7. The party list PR voting system has advantages: list systems of this kind, involving large multi-member constituencies, can give more opportunities for women and minority groups to gain representation. On the other hand, some people feel that party lists discriminate against those not willing to be part of the party structure, and it is impossible to stand as an independent candidate.

The Franchise

8. Scotland is one of the few places in the EU to allow other resident EU nationals⁵⁶ to vote in our national Parliament's elections as well as local government elections.

9. At present, the franchise for elections in Scotland is reserved to the UK Government. In the forthcoming Scottish Independence Referendum, the minimum age for voting in the referendum will be 16 instead of 18. In the event of Scotland gaining independence, the current Scottish Government would wish to see voting rights extended to 16 and 17 years olds for future elections to the Scottish Parliament.

⁵⁶ At present, around 160,000 EU residents from other nations are currently resident in Scotland

Wider Forms of Democratic Engagement

Participation and Voter Turnout

10. The Scottish Government is currently undertaking a consultation exercise⁵⁷ which includes discussion and questions around issues of participation and voter turnout. The written consultation is being accompanied by Ministerial engagement with key stakeholders. While declining turnout is a trend affecting most mature democracies, the Scottish Government is seeking to focus on: why turnout at Scottish elections is not higher; which areas of Scottish society are most affected by voter apathy; and how these communities can be encouraged to more actively engage in the democratic process.

Local Elections in Scotland

11. In Scotland – unlike the rest of the UK – the elections to the European Parliament of 22 May 2014 did not coincide with our local government elections. While there is an argument that holding different sets of elections on the same day can help boost turnout, it has also been suggested that this can lead to confusion for voters and even undermine the importance of the individual elections taking place.

12. It used to be the case that elections to the Scottish Parliament were held on the same day as those for local government but this practice was recently discontinued and these two sets of elections have now been de-coupled.

⁵⁷ 'Scotland's Electoral Future: Delivering Improvements in Participation and Administration

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

European Commission Recommendation of 29 January 2014 (C (2014)391 Final) and the Opinion given by the European Economic and Social Committee (EESC SOC/504) recognise the competence of national government to determine the qualification for voting in national elections. It does, however, point out that in a small number of cases – and that includes the UK – the qualification is based on residence whereas for the majority of EU states qualification is based on nationality. The UK limit on citizens' right to electoral registration gives rise to the somewhat anachronistic situation where British citizens resident in the EEA for more than 15 years become completely disenfranchised for national elections. On the other hand, some EU citizens resident in the UK, together with Irish nationals and many Commonwealth citizens are entitled to electoral registration and the right to vote.

Arguably, the people likely to be most affected by a referendum on EU membership are those British citizens exercising their right to freedom of movement by living and working in other EU member states. The EC Recommendation implies that the current 15 year limit by the UK can be interpreted as an impediment to the right of free movement within the EU member states as many of the estimated 1.5 million British citizens resident there will be unable to participate in either an election or a referendum, nor can they have access to British MPs to represent their views.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Our view is that those British citizens that reside outside the UK, in the EEA or elsewhere, should be able to exercise the basic democratic right of participating in UK national elections. The only qualification necessary should be to be a British citizen holding a British passport and that they be required to renew their electoral registration each year.

Representation in national parliament is a crucial part of the democratic process, particularly for those British citizens that pay taxes in the UK. Furthermore, the ability to access an MP for assistance with problems that may arise with national institutions is essential to many.

If FCO were to keep a register of British citizens resident abroad, by country, it would be easy to contact them if verification of eligibility was an issue.

Regional Returning Officer's office for the South East of England Region for the European Parliamentary elections.

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

In terms of the franchise at European Parliamentary, Local and National Elections – the main issue during the recent European Parliamentary Elections was that the Election was combined with Local (District, Borough or City) Council Elections on 22 May 2014 and that this led to some confusion particularly on polling day and leading up to it. European Union Electors have to fill out a separate declaration in addition to their UK electoral registration application. This is primarily to prevent double voting (i.e. the elector voting both in the UK and their respective European Union, home country). However the declaration asks for only the person's name, address, nationality and the locality or constituency within Europe they were last registered. This is clearly of not enough information to identify a person accurately in order to prevent them voting within another European Country. Furthermore it makes little sense that with the new system of Individual Electoral Registration being instituted within the UK, that an EU citizen could register online leading up to a European Parliamentary Election (in 2019 for instance) but then be required to complete a paper form.

As part of the Data Exchange, one local authority in the South East region had just 1 elector they were notified was still registered at the UK address they gave to their home country. For that Local Authority – they send out over 10,000 forms to EU citizens to ask them to register additionally in order to vote in the European Parliamentary Elections in addition to the Local elections. This cost an estimated £4000, this would be replicated across the UK and it would seem that at no point did the process prevent anyone from voting again in their home country.

Of course the process itself is cumbersome as the form asks questions that may or may not be relevant (for instance the form is sent to all EU citizens in registered to vote in the UK, regardless of how long they have been here). For instance if a person has lived in the UK for more than 2-3 years, why would they even be registered at a region or constituency in another country.

In addition to the above it became evident that levels of awareness amongst EU citizens registered in the UK, were very low in terms of appreciating that they needed to complete an additional registration form to vote in the UK.

The timing of the write-out for most Electoral Registration Officer's (ERO's) was difficult as the canvass to complete the Register of Electors was delayed until an October start, this meant that the EU write-out began varying between January and February and there has never to my knowledge been any national publicity surrounding it. The response rate has traditionally been very low and was not helped by the fact that people were often being asked to complete this additional form shortly after they had completed a canvass form.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

I guess there are hardly any drawbacks as far as I can see – except perhaps that the UK uses a different electoral system in EP elections than in national elections. This can irritate the voters and the whole electoral system to some degree, not least because the structure of electoral results (I am talking about party proportions of the valid vote) differs systematically between national first-order elections (Westminster) and second-order European elections. This structural difference is due to the fact that proportional electoral systems do not disadvantage minor parties to the same degree as the FPTP system does. One likely consequence of this is that the long-term decline of the combined share of the two main parties is accelerated by EP elections.

Advantages? To have a say as a member-country in the European Parliament, with one of the largest national delegations, is no small advantage. The costs are comparatively limited against that background.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

The challenges are mainly situated in the EP itself I would say. Because of the somewhat different ideological and policy orientations of UK parties and their deputies (compared to the majority of the MEPs), it can be difficult for them to join forces with the existing major political groups – EPP and Socialists. Prime example is the relationship between EPP and the Conservatives who would be a “natural” EPP member party (and was a member party for quite a period of time). However, given the size and stature of the UK in the EU, Conservatives and allies are strong enough to go it alone, and are now after the 2014 election the third strongest political group in the EP (although the Tories lost against UKIP). Also Labour members have sometimes a hard time to accommodate their views with those of the mainstream in the socialist group.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

I am a strong believer in representative democracy, particularly in the context of a multi-level policy as large and encompassing as that of the European Union. Representative democracy is indirect democracy, citizens and voters elect their representatives to do what they want them to do in their place when decisions are taken in parliament. Parties are here an essential link between citizens and policy making. There are just no other instruments available than general elections to effectively involve more than 300 million adult citizens in the political process at EU level.

This is not to say local initiatives for a more direct involvement of citizens could not be meaningful and effective.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

See above.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

Perhaps about the policy space of the European Union. We distinguish two policy dimensions, relatively independent of one another, which structure that space. One is the dominant left-right dimension. The other is the EU integration - national independence dimension. What is often ignored in the political discourse of structurally EU critical environments like the UK is that the main political forces in the EU have quite different stances on the dominant left-right dimension, while they share similar views about EU integration. This is why Junckers and Schulz are not one of the same kind, but are different – one on the centre- right and the other on the centre- left.

There is much more to say of course, and I wish I could join the discussion in person. Also, I did not add any references to scientific work, but am happy to supplement these statements with relevant quotes if useful.

The Balance of Competences in Seat and Party Apportionment in the European Parliament

Iain McLean & Richard Johnson⁵⁸

Summary

In response to your call for evidence on the above subject, we review the methods used to apportion seats in the European Parliament to countries, to regional constituencies within countries, and to political parties. We argue that current location of competences between the EU and national governments in establishing these rules of apportionment is satisfactory. The EU is responsible for deciding how many seats member states are to be allocated; member states retain the ability to establish rules for regional constituencies, party apportionment, and voting method within certain broad criteria set out by the EU. While the location of these competences is correct, we hold that both the EU and the UK government have executed these competences inappropriately. Specifically, we recommend that the EU adopt a correctly specified form of degressive proportionality (the ‘Jagiellonian Compromise’) in allocating seats to countries. Additionally, we hope that the UK government will bring the way in which it apportions seats to parties (currently Jefferson/d’Hondt) in line with the way in which it apportions seats to regions (Webster/Sainte-Laguë). We also discuss briefly the merits of different methods of proportional voting, including closed- and open-list voting systems and single-transferable vote (STV). All technical terms in this summary are explained below.

Background

In 1992, the Maastricht Treaty required that elections to the European Parliament should be held ‘with a uniform procedure in all Member States’ and instructed the European Parliament to draw up a proposal to that effect for unanimous adoption by the Council.⁵⁹ The Council was unable to agree to any of the provisions, however. In 1997, the Treaty of Amsterdam amended this provision of Maastricht, instead stating that the electoral procedure should be either ‘uniform...or a procedure based on common principles and subject to the other provisions of this Act’. The Treaty further clarified that within these common principles, ‘the electoral procedure shall be governed in each Member State by its national provisions’.⁶⁰ Accordingly, Council

⁵⁸ IM is Professor of Politics and RJ is a graduate student in the Department of Politics & International Relations, both Oxford University

⁵⁹ Maastricht Treaty, Article E, Section 40, <http://www.eurotreaties.com/maastrichtec.pdf>

⁶⁰ <http://www.eurotreaties.com/amsterdamtreaty.pdf> (p 57)

Decision 2002/772/EC introduced the principles of proportionality and incompatibility between national and European mandates (i.e. a Member of the European Parliament may not simultaneously serve as a member of a national parliament). With respect to proportionality, the 2002 Council Decision permits national governments to use either a list system or single transferable vote (STV).⁶¹

Apportionment of Seats to Countries: The Jagiellonian Compromise

The EU uses 'degressive proportionality' to allocate seats in the European Parliament in rough proportion to population, but with a floor for very small Member States and a negative relationship between seats and population above that. Although the term 'degressive proportionality' is widely used in the English-language version of Commission documents, it has never had a clear definition or justification; this has been left to applied mathematicians. The current system is therefore objectionable because it is arbitrary.

We therefore propose that the UK support what has become known as the 'Jagiellonian Compromise' from the home university of its authors⁶². The mathematics behind this is explained in the source document. Briefly, an apportionment of seats in the European Parliament to Member States in proportion to the *square root of their populations* is the fairest way of ensuring that as far as possible each citizen of Europe has an equal influence on decision-making in the EP. The Jagiellonian Compromise can be imposed after the minimum number of seats for small states and maximum for large states required in the EU Treaties have been imposed. It is noted that the Jagiellonian Compromise, like any system of degressive proportionality, would give states an incentive to split up in order to gain more seats in the Parliament in aggregate. However, we are not aware that this theoretical opportunity has featured in practical discussions in Scotland or Catalonia.

The apportionment of regional MEP constituencies in the United Kingdom

The EU allows member states to allocate seats according to a nation-wide constituency or by dividing the country into smaller regional constituencies, subject to conditions of proportionality.⁶³ A majority of EU member states elect MEPs from a single constituency covering the entire country. The United Kingdom is one of only five

⁶¹ Article I, Section 2, Council Decision 2002/772/EC

⁶² K. Zyczkowski and W. Słomczyński, 'Voting in the European Union: the square root system of Penrose and a critical point', available at <http://arxiv.org/ftp/cond-mat/papers/0405/0405396.pdf>, retrieved 30.06.14

⁶³ 'In accordance with its specific national situation, each Member State may establish constituencies for elections to the European Parliament or subdivide its electoral area in a different manner, without generally affecting the proportional nature of the voting system' (Article I, Sect 3, Council Decision 2002/772/EC)

EU member states which elect MEPs from regional constituencies. The others are Belgium, France, the Republic of Ireland, and Italy.⁶⁴

We believe that the flexibility currently afforded to countries to decide whether to create regional constituencies is important because regional representation may be a more important concern in some member states than others. Belgium, for example, apportions its regions to reflect the linguistic diversity of the country. McLean & Johnston argue that regional apportionment helps to ensure regional parties, such as Welsh and Scottish nationalist parties are more likely to elect MEPs.⁶⁵ Furthermore, regional apportionment is particularly important in the UK where Northern Irish parties typically do not compete in the rest of the UK. For these reason, it is a competence which should remain with member states.

In anticipation of proportionality demands implicit in the ‘common principles’ provision of the Treaty of Amsterdam, the UK government introduced regional constituencies in the European Elections Act 1999. The constituencies have always been since then the NUTS1⁶⁶ (‘standard regions’) of the UK. Although standard regions, other than London, are no longer used in England for any administrative purpose, we recommend that they should remain as Euro-constituencies, as any redistricting would be inappropriately laborious for any benefit it would bring.

Currently, the United Kingdom contains 12 regions from which MEPs are elected, with the number of MEPs in each region apportioned according to regional population. Nine of these regional constituencies are in England. Scotland, Northern Ireland, and Wales each constitute a separate constituency. In 2014, the largest region was the South East England with 10 MEPs; the smallest regions are the North East England and Northern Ireland with 3 MEPs each.

Since the 1999 European Parliament elections, the UK government has implicitly used the Webster apportionment method to decide how many seats each region will receive.⁶⁷ The ‘Webster method’ of apportionment, proposed by Massachusetts senator Daniel Webster in 1832, is mathematically identical to the ‘Sainte-Laguë method’, named after the French mathematician André Sainte-Laguë. Webster/Sainte-Laguë applies a common divisor to the qualifying population in each region, rounds off the resulting quotients from the arithmetic mean (0.5), and uses the result to allocate an integer number MEPs to each region. Because the method rounds at 0.5, it contains no inherent bias to small or large population regions. Balinski & Young prove that Webster/Sainte-Lague is the uniquely fairest apportionment scheme

⁶⁴ http://www.europarl.europa.eu/ftu/pdf/en/FTU_1.3.4.pdf

⁶⁵ I. McLean & R.J. Johnston, ‘When is Proportional not Proportional? Great Britain’s 2009 Elections to the European Parliament’, *Representation* 45:4,349 — 355, 2009.

⁶⁶ A Eurostat concept: *Nomenclature of Units for Territorial Statistics*

⁶⁷ As far as we know, this has not been formally stated by the UK authorities. But all reallocations of MEP numbers to the twelve districts since 1999 have conformed to the Webster method, after ensuring that Northern Ireland has a protected minimum of 3 seats.

for this reason.⁶⁸ We recommend that no changes be made to the method of apportionment of seats to region.

Party apportionment: Adopt Webster/Sainte-Laguë method

While Webster/Sainte-Laguë is used to apportion seats to regions, the number of MEPs a party wins within each region in Great Britain⁶⁹ is decided using a different method of proportionality: the Jefferson/d'Hondt method, named for Thomas Jefferson who first proposed it (unsuccessfully) in the first reapportionment of the US House of Representatives following the 1790 US Census and the Belgian mathematician Victor d'Hondt who proposed a scheme of identical mathematical logic in the 1870s.

Like Webster/Sainte-Laguë, Jefferson/d'Hondt applies a common divisor to the qualifying population in each region, rounds off the resulting quotients, and uses the result to allocate an integer number MEPs to each region. However, whereas Webster/Sainte-Laguë rounds from the arithmetic mean, Jefferson/d'Hondt ignores quotients after applying the common divisor. Because of this, as Balinski & Young have shown, the Jefferson/d'Hondt system favours larger units (e.g., more populous regions, parties with a larger vote share) since it ignores quotients after applying the common divisor.

McLean & Johnston found that the use of the d'Hondt system has been to the disadvantage of small parties in British European parliamentary elections.⁷⁰ Updating these results for 2014, we find that the Greens and the Liberal Democrats would have won more seats if d'Hondt had been used.

The decision regarding whether to use Webster/Sainte-Laguë or Jefferson/d'Hondt is ultimately a political one, depending on the desirability or undesirability of promoting small-population parties/regions. The Plant Commission in 1991 noted, 'The question of whether to use the d'Hondt system is not made by invoking the idea of fairness so much as the idea that the system should discriminate in favour of large parties'.

In 1997, Jack Straw defended the choice of d'Hondt over Sainte-Laguë on four grounds.⁷¹ First, he argued that d'Hondt 'will produce a fair result', without defining electoral fairness. Second, Straw argued that d'Hondt had been shown to produce more proportional results than Sainte-Laguë, a claim for which Ministers had to apologise after one of us (McLean) reanalysed the Home Office data and found the inevitable error (inevitable because it is known *a priori* that d'Hondt is less fair than Ste-Laguë).. Third, Straw claimed that Jefferson/d'Hondt was 'more logical' than Webster/Sainte-Laguë, but we reply that rounding from the arithmetic mean (0.5) has

⁶⁸ M. Balinski & H. P. Young, *Fair Representation* (2nd ed. Washington DC: Brookings 2001), Theorem 5.3.

⁶⁹ Northern Ireland uses STV rather than a list-system.

⁷⁰ McLean & Johnston, 2009.

⁷¹ House of Commons Debates, 25 Nov. 1997, vol. 301 cols. 803–77.

equal or indeed *more* logical basis than the Jefferson/d'Hondt's practice of always rounding quotients down to the lower integer. Finally, Straw justified the use of d'Hondt on the basis that Sainte-Laguë was only used by one member state (Sweden – although, now, Latvia also uses the system). However, the UK already diverges greatly from most other member states on other matters of electoral practice (e.g., regional constituencies, STV in Northern Ireland). Conformity to a European 'norm' has not guided other aspects of our electoral practice; therefore, it seems arbitrary to impose this as a condition in our allocation of party representation.

Instead, it appears that the UK government has taken the view, implicitly, that no bias should be given to a region depending on the size of its population but that larger parties should be advantaged within these regions for the purposes of European parliamentary representation. This is a legitimate position to hold, but the UK government has never defended it on this basis. Either the UK government must be prepared to defend the divergent use of d'Hondt/Jefferson and Webster/Sainte-Laguë on the grounds that it believes in the importance of favouring larger parties or, we suggest, it should abandon the Jefferson/d'Hondt system entirely.

QUESTION 1: What are the benefits and drawbacks to the UK of the current division of responsibility between the EU and Member States at European Parliamentary elections? You may wish to comment on matters including: the franchise (at European Parliamentary, local and national elections); the administration of elections; electoral integrity; and costs.

No comment on the first question.

One issue that has arisen with respect to the European Parliamentary elections on 22nd May is that all political parties standing a slate of candidates in the Welsh region becomes entitled to an election broadcast on mainstream regional TV. This has attracted extremist parties to stand candidates. This may, however, be a UK-only provision.

QUESTION 2: What challenges do candidates and parties wishing to stand for election at European Parliamentary elections face and are they appropriate?

No comment. Something for political parties to comment upon.

QUESTION 3: What are the impacts of European initiatives to engage citizens in policy making and democracy? What has worked well and/or what has not worked so well? You may wish to give examples.

No comment. I have had no involvement in any of these.

QUESTION 4: Are there any future opportunities or challenges for the UK which result from EU-wide democratic engagement initiatives other than voting at elections? If so, how can opportunities be capitalised on, or challenges met? You may wish to comment on petitions.

No comment.

QUESTION 5: Are there any general points you would like to make which are not captured by the above?

None.

Balance of Competences Review (Voting) Stakeholder Event

London

Monday 23rd June 2014, Cabinet Office, London

Note of Round-table Discussions

This note summarises the feedback of attendees in discussion and does not represent the views of the UK Government.

Group One

Name	Organisation
Alex Thomas (Chair)	Cabinet Office
Matthew Yeo	Southampton City Council
Simon Verdon	Electoral Management Software Supplier: Democracy Counts
Kate Chidgey	Foreign and Commonwealth Office
Paul Double	City of London Remembrancer
James Organ	Liverpool University – European Law Unit
Josephine Quintavalle	CORE (Comment on Reproductive Ethics)
Andrew Marsh	Christian Concern

Discussion One – Voting and the franchise at European Parliamentary Elections

Voter-engagement and European Parliamentary Elections

The group noted the strength of alliances in the European Parliament and the way in which party groups contribute to the way the Parliament operates.

It was generally felt that the British electorate was not well versed in the relationship between UK political parties and European party groups and that this had consequences for voting at European Parliamentary elections. Some felt that more needed to be done to educate the British electorate about the European Parliament and European Parliamentary elections.

This was not believed to be a problem arising from the balance of competences and it was generally agreed that this was an issue which could be addressed within individual member states rather than at an EU-level through voter education. It was noted that some smaller political parties may not have a clear alignment to a party group prior to obtaining seats in the European Parliament. Some argued that for this and other reasons UK political parties might not welcome any drives towards shifting the balance of competences towards the EU to enable the more orchestrated dissemination of messages to the electorate about the European

Parliament and how its work informs the choices electors make when voting at European Parliamentary elections. It was noted that if there was to be a stronger role for national governments or the European Union in educating voters, it might pose a future challenge in terms of where competence for this activity should lie.

The group also noted that turnout at European Parliamentary elections is low in comparison to recent UK Parliamentary elections and some contributors suggest that holding the election alongside other polls such as local elections could take the focus away from European issues. However, it was also argued that turnout at European Parliamentary elections could be lower still if they are not combined with local elections, which was seen as a reflection of the public's engagement in the issues.

Voting systems

It was generally felt that the electorate in England, Scotland and Wales was becoming more used to a proportional representation system for European Parliamentary elections. Arguments were put forward both ways regarding electoral systems. It was noted that proportional representation was perhaps suited to the large voting regions in place at European Parliamentary elections. However a contrast was drawn, by those against proportional representation, with UK Parliamentary elections, the argument being that with the exception of 'safe seats' voters feel they can make a difference and choose their candidate personally in a first past the post system, and may not feel as engaged in the voting process at European Parliamentary elections, which are run across large voting regions and where voting is for parties not candidates.

Common voting day

There was some feeling in the group that, in the UK, people would not be influenced by results or polls from other Member States released before the close of polls in this country. However, the group could not agree whether this would apply to all Member States and it was also felt that there was an important principle to uphold in not revealing the result or publishing exit polls before polls had closed in all Member States.

Information Exchange

Citizens of EU member states have the right to vote in European Parliamentary and municipal elections in any Member State in which they reside. In order to do so they need to make a declaration and it was felt there were problems with this system at the May 2014 polls (some voters may not have understood the forms or the need to complete them, for example).

It was also acknowledged that the 'information exchange', although agreed to by Member States, posed individual practical issues which arguably make it unworkable in the UK. For example, all Member States collect different data on electors leading to a mismatch of information.

The franchise

Some agreed with the principle behind the 15 year rule – that the right to vote should be based on residency as that provides a connection to the local issues in play when choosing an elected representative. Some felt that this argued for EU member states permitting citizens of other EU member states to vote in national parliamentary elections when they reside there, regardless of national citizenship. One contributor noted that UK overseas voters must renew their registration annually and that in their experience, relatively few remain on the register for the full 15 years. The point was also made that whilst citizens of most other EU member states do not have the right to vote in UK Parliamentary elections, Commonwealth citizens do provided they reside in the UK. It was noted that MPs represent all their constituents but some of voting age do not have the right to vote for them.

It was noted that some systems of governance in the UK were unrecognisable to the European Union (EU) (for example, in terms of the franchise) and ideas of EU citizenship (the example of ward elections in the City of London was raised where businesses are qualified to vote). The point was made that the more the EU seeks to influence the franchise at a local level, the more likely it is that local variations which have particular historical basis will come into question. There was general agreement that, in this respect, the balance of competences was about right but that EU competence should not go any further.

In relation to the question of competence, whilst the point was made that consistency of rules across Member States had merits, there was agreement that such questions should remain within the remit of national governments as now.

Group One – Discussion Two – Direct forms of democratic engagement

European Citizens' Initiative

Amongst the group there was some recognition that the European Citizens' Initiative (ECI) was a useful tool. However, it was also acknowledged that there are many administrative challenges to the process and that in practice it does not function as efficiently as it should. In particular, it was noted that the European Commission's role as 'gatekeeper' does not inspire confidence amongst campaign groups. It was thought that this discourages pan-European democratic engagement. There was enthusiasm for ECI petitions to have more of an impact on policy decisions.

Overall, it was thought that experience of the ECI to date was likely to discourage campaign groups from using it as a real means for them to engage in the European policy making process and that more flexibility was required on the part of the European Commission in terms of the administration and approval of initiatives.

However, more generally it was felt that some form of direct democracy was important and that, in this respect, the ECI had a role to play.

Accountability

It was agreed by the group that if EU institutions exist it is imperative that they are accountable in some form. It was acknowledged that EU institutions should not hold power without being accountable to citizens.

In terms of the balance of competences the group agreed that the EU and UK government could benefit from more clearly defined roles in the education of voters on what they were voting for or engaging with, and how EU institutions function.

Group Two

Name	Organisation
Abigail Dean (Chair)	Cabinet Office
Rachel Mumba	Cabinet Office
Professor Michael Keating	University of Aberdeen
Henni Ouahes	Law Commission
Chris Terry	Electoral Reform Society
Robert Chase	HM Diplomatic Service (Retired)
Timothy Straker QC	4-5 Grays Inn Square
Sappho Dias	4-5 Grays Inn Square
Dilpreet Dhanoa	4-5 Grays Inn Square
Dr David Green	Civitas
Kristine Doronenkova	Economic and Social Research Council
Richard Johnson	University of Oxford
Dr Michael Pinto-Duschinsky	Policy Exchange
Renaud Thillaye (only present for first discussion)	Policy Network

Discussion One – Voting and the franchise at European Parliamentary Elections

General discussion about division of powers between the UK and EU

The meeting began with a general discussion about the UK's membership of the European Union (EU). Some of those present believed that there was a democratic deficit in the EU which could not be resolved and they therefore favoured a complete withdrawal from the EU. Other attendees believed that rather than complete withdrawal from the EU, a fairly radical renegotiation of the relationship between the UK and the EU was required, as there has been a progressive loss of sovereignty. Other attendees noted this democratic deficit but believed that reforming the European Parliament and strengthening the relationship between the European Parliament and the electorate would help address this.

Competence over the administration of elections

It was suggested that greater uniformity across Member States in the administration of elections may help to address the issue of engagement as it would bring greater clarity to the electoral process. To achieve this some attendees suggested that more power should be given to the EU, to allow it to establish centrally the basic rules for elections. Other attendees disagreed, and made the point that because the law governing elections is the UK's responsibility, any electoral conduct issues that arise can be dealt with relatively quickly in the UK Courts. In their view, involving EU institutions in this process would be undesirable as it would complicate and therefore increase the time it would take to resolve legal issues.

Electoral systems and electoral regions

The attendees were generally united in their criticism of the closed list voting system which exists in England, Scotland and Wales. Some argued that it was undemocratic because it does not allow electors to select individual candidates and therefore removes the link between the individual voter and Members of the European Parliament (MEPs). One attendee expressed surprise that competence over which electoral system could be used for European Parliamentary elections lay with the UK. Research in this area was referred to and it was noted that countries with open list systems tend to have higher turnout rates and a more engaged electorate.

It was also felt that large electoral regions added to the dissociation between MEPs and constituents, as they removed any clear link between MEPs and the electors who had voted for them. It was noted that Northern Ireland uses the STV (Single Transferable Vote) electoral system to elect MEPs to the European Parliament. It was suggested that research could be carried out into whether engagement levels were any higher in Northern Ireland.

Funding arrangements

The proposed new funding arrangements for EU Political Parties were raised. Some believed that the underlying purpose of these arrangements would be to draw countries into closer union with one another.

Residence requirements

It was suggested by some contributors that the UK's residency requirement is relatively limited in that it does not require individuals to have been resident in the UK for a certain period of time before they may vote. Given the significant and fairly rapid shifts in the population that are taking place, some believed that such a requirement should be introduced. Others argued that such measures would risk further complicating the already complex electoral process but others believed that this wouldn't be a problem if the rule was applied across all elections. However, the difficulties of incorporating such an arrangement into the UK's current electoral registration system were noted. One attendee believed that expanded residency requirements would not be appropriate as European Parliamentary elections are not national elections; rather people derive their right to vote in those elections from the fact that they are citizens of the EU.

Overseas voting

Overseas voting was discussed and the challenges associated with sending postal votes overseas, such as their late arrival. It was suggested that consular voting would resolve this issue, although it was noted that provisions were included in the Electoral Registration and Administration Act 2013, to allow postal votes to be sent out earlier than had previously been possible. However, the point was also made that the requirement to post back a postal vote in sufficient time for it to be received by polling day, prevented overseas electors from being able to engage with the debate that takes place in the run up to polling day. Concerns were also raised over postal vote fraud. It was noted that the default position within the current

balance of competences is that electors should vote in their home state (the state in which they were born).

The existing balance of competences between the UK and the EU

One attendee felt that the current balance of competences was appropriate, with regard to voting and the franchise, as it gives the UK the flexibility to decide what works best with regard to the implementation and administration of elections. However, there was no overall agreed view from the group on whether the balance, or a change to the balance, was appropriate.

Group Two – Discussion Two – Direct forms of democratic engagement

The European Citizens Initiative

The European Citizens' Initiative was discussed. There was general agreement that the system is overly bureaucratic and it was noted that in order to have a chance of success citizens have to be very well organised and have a transnational presence. Some attendees viewed such proposals as cosmetic whilst others saw them as a deliberate attempt to distract the public and deny the public information about the powers that have been transferred from nation states to the EU. Other attendees agreed that however narrow they may be, it was important for the European Parliament to have systems in place to allow people to engage with it at the EU citizen level. On the subject of how citizens can be encouraged to engage with the European Parliament, the point was made that political parties in the UK could do more to encourage electors to engage with European issues. Some suggested that a mechanism could be put in place to allow each nation state to have a say over the issues that the European Parliament discusses on a certain day. Others suggested national influence is already exerted through the European Council and that the key to voter education is to have more concerted efforts at an EU level to explain what the institutions do.

Education

It was generally noted that the electorate need to understand the roles and responsibilities of their MEPs and the European Parliament. It was argued that until the electorate understand this, they are unlikely to get involved. With regard to educating the electorate, it was noted that questions around who should produce and distribute information and who should fund this would need to be considered.

The existing balance of competences between the UK and the EU

It was noted that the question of whether the balance of competences is appropriate often depends on people's feeling towards the EU. There was general agreement that it would be helpful to clearly set out the existing division of powers between the UK and European Parliament and MPs and MEPs. It was noted that one of the outcomes of the balance of competences review will be a set of reports describing how powers divide between the UK and the EU.

**Balance of Competences Review (Voting) Stakeholder Event****Brussels****Tuesday 29th April 2014, Brussels****Note of Round-table Discussion**

This note summarises the feedback of attendees in discussion and does not represent the views of the UK Government.

Attendees		
Name	Organisation	Position
Alex Thomas (Chair)	Cabinet Office	Deputy Director, Elections & Parliament Division
Matt Carey	Cabinet Office	Project Manager, Balance of Competences (Voting) Review
Lucy McMichael	Cabinet Office Legal	Constitutional Lawyer
Fabian Seshadri	UK Representation to the EU	Second Secretary Political, Institutions
Claire Montgomery	Scottish Government	EU Policy Officer
Ian Catlow	London's European Office (GLA)	Head of Office
Robert Bray	Secretariat, Committee on Legal Affairs DG Internal Policies, European Parliament	Acting Head of Unit
David Hastings	American Chamber of Commerce to the EU	Policy Officer, Institutional Affairs Committee
Leonie Hertel	COSLA	EU Policy Officer
Andrew Cave	Director, Regulatory Communications	Philip Morris International
Sietse Wijnsma	Political Assistant to Andrew Duff MEP	European Parliament

Introductions

Cabinet Office explained that the meeting would be held under the Chatham House Rule and that a note of the meeting would be produced but quotes would not be attributed to attendees. Cabinet Office invited views on the balance of competences and, in particular, on the issues raised in the questions asked in the Call for Evidence. The views and comments given are summarised below.

Voting Systems

Proportional Representation

It is a requirement of EU law that Member States adopt proportional representation voting systems to elect MEPs. It was suggested that the move from first past the post to proportional representation in the 1990s weakened the link between UK MEPs and their electorate. This was because voters do not select an individual to represent them directly, but vote on a list basis across large electoral regions instead. It was noted that, given these arrangements and although MEPs receive significant casework, it was more likely for MPs to be the first point of contact for many electors. Some cited examples of UK MEPs dividing up an electoral region between them and allocating casework on that basis, to ensure visibility amongst their electorate.

Closed List System

Some suggested the closed list system adopted for European Parliamentary elections in England, Scotland and Wales did not engage voters to the same extent as an open list system, as political parties have more influence on whether a candidate is likely to be elected or not. The closed list was seen by some as an advantage, as it gives voters some certainty as to the candidates most likely to represent them on behalf of a party, if that party is elected. Others felt the closed list system reduced the chance of new talent being returned to the European Parliament if MEPs currently in-post are selected to head party lists. The convention in the UK whereby candidates stand in a single electoral region was seen as beneficial to voter choice although a contrast was drawn with Member States where well known candidates stand in multiple electoral regions (in order to attract votes) and resign from seats if returned in more than one region. Whilst it was thought advantageous to have stronger links between individual candidates and electors than at present, a change in the balance of competences was not necessarily thought the best solution to achieve this.

Voting Day

Local Elections

It is for Member States to decide whether to hold European Parliamentary elections on the same day as other elections. In the UK, European Parliamentary elections are usually held on the same day as local elections and there were mixed views on the benefits of this. An advantage was increased turnout, but some suggested holding elections on separate days could help bring greater clarity to the separate European and local issues which apply to each poll. It was noted that several European Member States opt to combine municipal with European Parliamentary elections and it was not thought Member States should lose this ability.

It was noted that because of the Fixed Term Parliaments Act 2011, European Parliamentary elections are on a different cycle to UK Parliamentary elections, which means that there is a clear demarcation between the European Parliament and national elections in the UK. It was felt there were benefits in keeping the European and national elections separate, and that combining European and local elections in the UK presented political parties and candidates with a challenge since they had to try to explain to voters which issues applied to which poll.

Common Voting Day

There were mixed views on the question of holding a common voting day across the EU for European Parliamentary elections. Some thought that voting from Thursday to Sunday means results, despite the safeguards in place, can be announced early, influencing the outcome in other Member States which have yet to vote. Others believed that risk was not so great, given the requirement not to publish results until polling had closed in all Member States. It was recognised that the ability for UK European elections to be held on a Thursday allowed the UK tradition for elections to take place on a Thursday to be upheld, but some felt that there was merit in looking at whether a common voting day could be agreed. Weekends were suggested to accommodate students studying away from home although some noted either Saturday or Sunday may present issues for religious reasons. The possibility of electronic voting was also discussed. It was noted that the gap between voting on Thursday and the announcement of results after Sunday could be confusing for voters.

The Franchise

The 15 year rule

It was felt that Member State competence over national elections caused problems when limitations were placed on EU citizens' right to vote in their home Member State's national elections, once they left that Member State to reside in another Member State. Some saw the "15 year rule" which exists in the UK for overseas citizens' participation in national elections, at odds with the right to free movement within the EU and the concept of EU citizenship. Attendees were generally not in favour of the rule. It was noted that Gibraltarians could vote in European elections in the UK but UK nationals who lived outside the UK for 15 years or more, could not and that Irish citizens could also vote in UK national elections.

It was acknowledged that the UK's policy is in line with the EU Treaties, but it was felt by some that UK citizens working for 15 years or more in Brussels, for instance, and who are considered domiciled in the UK for tax purposes and owned property in the UK, may continue to have strong ties with the UK and continue to follow UK politics closely, yet be unable to vote in UK national elections. It was accepted that this was not a question of whether the EU or the UK ought to have competence in this area, but rather a commentary on the "15 year rule" itself. Some felt it was appropriate that the European Commission was trying to influence Member States' policy in this area, but recognised the franchise is a matter of Member State competence.

National Elections

It was also noted that EU citizens who lost their right to vote in national elections, were not represented in the European Council or the Council of Ministers. Further, an EU citizen who had exercised their free movement rights could find themselves in the position of being unable to vote in any national elections. However most did not see this as a balance of competence issue as it was felt that Member States should have control of policies which affect national elections, including the franchise. However, it was felt important that there should be no discrimination.

Right to Vote in Municipal Elections

One attendee referred to the EU right to vote in municipal elections in the Member State of residence as a positive for UK citizens living elsewhere in the EU, but drew a distinction between one's identification with local politics, which is closely linked to residency, and national politics, which may be linked more closely to national identity.

Other UK elections

There was discussion of the franchise at other UK elections, and it was felt that overseas UK citizens residing elsewhere in the EU should be able to vote in UK referendums which affect their interests, such as a referendum on the UK's membership of the EU. It was felt that having different franchises for different elections in the UK was confusing, although it was recognised that this was not strictly a balance of competences issue as the franchise at national and local elections should be set by the Member State.

The Information Exchange

EU law requires Member States to obtain and share information about EU Member State citizens who are standing for or voting in an election in a Member State of which they are not a citizen (the Information Exchange). The intention is to prevent double voting and those disqualified from standing for election in one Member State from standing for election in another.

Several thought that whilst the element of the Information Exchange which relates to preventing double voting was a good idea, it did not work well and did not prevent double voting in practice. How Member States collected data about electors was not harmonised and it some thought there should be greater uniformity across Member States. One suggestion was to have central checking of data at an EU level.

The process whereby member states verify on behalf of parties whether a candidate from another EU Member State is disqualified there or not was seen to have worked well and been of benefit to candidates wishing to stand in another Member State.

Disqualification of MEPs

It is for Member States to set the rules for disqualification of their MEPs. One issue discussed was the need to ensure the credibility of the European Parliament, especially where MEPs are convicted of offences. In the UK, MEPs are disqualified from membership of the European Parliament if they receive a custodial sentence of more than one year. An example was cited of a UK MEP who, in compliance with this rule, was able to retain their seat in the European Parliament and draw a salary, despite having been given a custodial sentence of less than a year. In this regard, it was felt that greater consistency in policy across Member States could be beneficial.

Party Funding

It was noted that as long as European Parliament elections were being fought by the national political parties in the UK, they would be treated as "national" elections.

There were mixed views on the funding arrangements for political parties in individual Member States and EU funding for pan-European parties. Several saw the potential advantage in

Member State and EU funding, but also thought that this could be difficult to administer. Whilst state funding could be designed to ensure proportionate funding across a range of political parties, it was recognised that legislating for this could be difficult. It was also discussed whether individual donations to political parties should be limited. There was no firm view as to whether the present arrangements, where Member States have competence over party funding, should change but it was mentioned that there should be a debate about greater co-ordination across the EU to assess the benefits and drawbacks of the current arrangements.

Recent legislation enabling EU political parties to campaign at European Parliamentary elections, providing they comply with the Member State's rules on electoral campaigning was seen as a positive step. It was questioned whether it might be beneficial to go further, and permit EU political parties to campaign in national referendums about EU issues, such as referendums on future EU Treaties or on a Member State's continuing EU membership. It was noted that EU political parties receive funding from the EU institutions and that this could cause conflict if they were allowed to campaign more widely.

EU Member States Citizens' Engagement

President of the EU Commission

The European Parliament's ability to propose the new President of the European Commission was seen as having the potential to engage voters in EU democracy, but it was acknowledged that this might affect the relationship between the EU institutions. It was also noted that placing the appointment of a Commissioner in the hands of the European Parliament could also have the effect of removing a Member State's ability to opt for an alternative appointment to represent them.

European Citizens' Initiative

The European Citizens' Initiative (ECI) was seen as a positive move in terms of enabling EU citizens to engage, but there were concerns that the process had not yet proven itself as an effective or proportionate mechanism. It was noted that whilst the ECI had been presented as a way to put forward policy proposals, it was really no more than an agenda setting mechanism. The process by which ECI petitions are managed was seen as unduly burdensome and costly for EU citizens and Member States, which perhaps explained why there had only been two successful ECIs so far.

Petitioning the European Parliament

By contrast, petitioning the European Parliament was seen as more of a success story and a real means by which to influence EU policy. However, it was noted that this petitioning process should not be presented by MEPs as a way of solving all manner of problems, such as those which fell outside EU competency. In general, it was thought to be easier to influence EU policy, so long as you knew how the institutions worked.

Social Media Campaigning

It was noted that social media and the online community was being used effectively by EU citizens to campaign across Member States to influence EU policy (e.g. campaigns relating to software patenting, e-cigarettes). However it was noted there are challenges in encouraging grassroots campaigning (as opposed to nationally led campaigns) on issues unless they are

seen to have a direct impact on EU citizens. It was noted that this was not a balance of competence issue as such.

Conclusions

Overall it was felt the current balance of competence between the EU and the UK when it came to voting, seemed about right. However, some felt that EU citizens should always be able to vote in the national elections of their home Member State albeit that was not necessarily a question of competence.

Summary of 54 EROs comments on the information exchange

Overall comments

Of those EROs who provided comments on the Information Exchange process for the transfer of data between Member States on EU voters, prior to the 2014 European Parliamentary elections, all questioned whether the process was worthwhile. Questions centred on whether the existing process serves any great purpose, and whether the exchange of information really worked in so far as detecting voter fraud.

One ERO stated that ‘policing it is virtually impossible’, whilst another expressed that they were ‘not sure how beneficial the exchange of data is, as most electors are either vague or unaware of their previous constituency’. Another felt ‘the whole process is currently unquantifiable and therefore [it is] difficult to say whether it is of benefit to EU citizens in the UK.’

Focusing on administration, a number EROs questioned the efficiency of the process as a whole. A couple of EROs explicitly felt the whole process to be a waste of their time, especially during what they would consider to be a very busy time in the electoral calendar. Conversely, however, a few EROs commented that the way in which they were asked to send the information was very straightforward and did not overly impact on the workloads leading up to the election.

Issues

Specific complaints/issues centred on the amount of information received from and the role of other Member States; the multiple registration deadlines; and the information required on the UC1 forms.

Information from/role of other Member States:

A few EROs commented on the lack of information received from other Member States, with one ERO stating that the ‘information received was very little and [referred to] people [the EROs] were unaware of’. Others provided anecdotal evidence to this effect, and suggested the information on a number of British citizens was missing. One ERO highlighted that they had received notifications from British citizens stating they were going to vote in their Member State of residence, but they did not receive this information via the Information Exchange process.

One ERO also reported that British citizens abroad experienced difficulties registering to vote in their country of residence for the purpose of European elections, specifically making reference to Italy where one elector reported attempting to register on a number of occasions, but each time being refused.

Multiple registration deadlines:

A number of EROs felt the introduction of multiple deadlines for sending information to other Member States to be confusing and time consuming, especially where receipt of data was required on different dates. A few stated that the different dates meant significant additional work. One ERO also highlighted that 'the deadlines for sending [other Member States] information was not compatible with the election timetables [in the UK]' so felt it to be a waste of resources and time.

UC1 forms:

A number of the EROs raised specific issues with the current UC1 form and the information it requires from electors (as set out under the EU Information Exchange Directive). Predominantly comments centred on the lack of information provided by electors with a number of EROs stating that most European nationals who returned the form didn't know the name of their constituency where they were last registered, or if they were previously registered, in their home Member State rendering the information collected useless.

Other EROs found that there were varying degrees of information entered at the point where the form asks for the 'name of the locality or constituency where [the elector] was last registered [in their home Member State], as far as they know', with some entering their full address, and others only entering partial addresses, or nothing at all.

Many EROs also commented on the lack of UC1 returns from electors. One ERO explained that despite doing both an initial and reminder UC1 mail-out, they only received 1,604 forms out of a European electorate of 5,313 voters, (3,707 failed to return their form). Some EROs also reported receiving a number of complaints from European citizens who did not return their EP registration forms, and weren't able to vote in the 2014 EP election.

Proposals for change:

A number of the EROs made specific recommendations on where they felt the existing Information Exchange process could be improved. These recommendations broadly divided into issues for consideration at a UK level and a wider Member State/ EU level.

UK Level

A few of the EROs felt it would be beneficial for the UK to review its internal processes with regards to the exchange of information between Member States. Suggestions were made along the following lines:

- Developing a secure web portal or website for EROs to input their exchange data into.

- Having a single point/source for the uploading and downloading of exchange data, which could then be monitored by the Cabinet Office in a 'gatekeeper' capacity.
- For Cabinet Office to liaise directly with software suppliers with plenty of notice, so that EROs are able to automate the Information Exchange process in future.

Member State/EU Level

Recommendations for change principally focused on the registration deadlines for sending the information to other Member states, and the information required at the point of the elector completing the UC1 form/declaration (as set out by the EU Directive).

Registration deadlines:

The main recommendation made with regard to registration deadlines for sending information, was that there should be one single agreed date for the exchange of information between Member States. A few EROs highlighted the benefits of introducing a single date; namely, that a single date would make the exchange process easier from an administrative point of view, and that it would help avoid confusion for the electorate. Many EROs cited that they continued to get registration forms from voters right up until the registration deadline [6 May], but this was past many of the other Member State's deadlines.

A couple of EROs stated that if multiple registration deadlines were to remain that it would be helpful for earlier notice of the deadlines to respond to each country, and for there to be an explanation of the differing deadlines.

UC1 forms/declarations:

Given the lack of information provided by electors on the UC1 forms themselves, a few EROs made specific recommendations for how this could be rectified. This included requiring electors to enter the full address of their home country, rather than their constituency or locality where they were last registered, so as to avoid confusion for both the elector and electoral services team; and the suggestion that UC1 forms include the relevant information which the EU spreadsheet required, i.e. the information listed as a requirement by each Member State for validating the identify of their nationals.

Others felt that electors should not have to register separately for the European election to begin with. One ERO proposed that EU citizens should be able to decide where they wish to vote in European Parliamentary elections at the point of registration, which would allow the information to be sent to other Member States at the point of annual publication, and again as necessary during the year.