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The specificity of the electoral system to the European Parliament in the Republic of Austria

Abstract: On 1 February, 1994 the Republic of Austria concluded the Accession Treaty and on 1 January, 1995 became a full member of the European Union. Membership obliged Austrians to 'provide' the Community with appropriate personnel to take up different posts in various EU authorities, as well as in the European Parliament. The most important issue was to alter particular statutory regulations and the Austrian Constitution to adjust to the new situation.

The paper aims at presenting the Austrian solutions in this matter in the context of European Union law, with particular emphasis on regulations which are uncommon or specific to the Republic of Austria. The matter of interest is the constitutional practice of EU member states and the reader's perspective is taken into account. The latter approach not only evaluates the Austrian solutions in the context of the electoral law to the European Parliament contained in the Election Code, but could also suggest some ideas in regard to prospective amendments. The authors would, in particular, like to pay attention to two issues: the lowering of the voting age, and the single constituency electoral system. The Austrian solutions might be valuable to refer to in the countries where a system of correspondence voting is just being introduced. These resolutions are particularly interesting taking into consideration prospective, possible amendments to the electoral laws of the EU member states.

Key words: Austria, election, European Parliament, elections statute, electoral rights

Introduction

On 1 February, 1994 the Republic of Austria, together with Finland and Sweden, concluded the Accession Treaty and on 1 January, 1995 became a full member of the European Union. EU membership required some modifications in the formula for federalism. In addition, several new solutions, in particular institutional ones (e.g. mutual positions of the *länder*) needed to be introduced. The foreign policy of Austria after World War II was based on neutrality. By joining the EU, the politicians and Austrian society indirectly gave their consent to gradual changes of this status, bearing in mind the need for shaping a mutual security policy. After the negotiations, a national referendum had to be called due to the fact that the accession of Austria required an amendment to the constitution. The referendum was held on 12 June, 1994. 82.35% of people eligible to vote participated in the referendum, 66.58% of whom opted for integration (*Bundesministerium für Inneres, Volksabstimmung*).¹ The outcome of the national referendum provided the

¹ It is worth mentioning that simultaneously (i.e. on 8–12 June, 1994) the fourth elections to the European Parliament were being held in the remaining states of the EU.

grounds to introduce the Federal Constitutional Law on the Accession of Austria to the European Union (*Bundesgesetzblatt*). The Law came into force in 1994.

One of the most crucial aspects was the opportunity to co-decide and to participate in 'governing' the whole of the European Union. Membership obliged Austrians to 'provide' the Community with appropriate personnel to take up different posts in various EU authorities as well as in the European Parliament (*Bundesgesetz über die Wahl*).² The most important issue was to alter particular statutory regulations and the Austrian Constitution to adjust it to the new situation.³

The introduced regulations were specific enough (within the confines of EU law) to make the peculiarity of Austrian elections to the European Parliament noteworthy. This paper aims at presenting the Austrian solutions in this matter in the context of European Union law, with particular emphasis on the regulations which are uncommon or specific to the Republic of Austria. The matter of interest is the constitutional practice of EU member states and the reader's perspective is taken into account. The latter approach not only evaluates the Austrian solutions in the context of the electoral law to the European Parliament contained in the Election Code, but could also suggest some ideas in regard to prospective amendments.

European provisions

The aforementioned framework was primarily stipulated by the Treaty Establishing the European Community (TEC)⁴ in Article 19(2) by introducing the right to vote and the right to stand as a candidate in elections to the European Parliament. Then, some specific provisions on electoral rights in elections to the European Parliament were stipulated by Directive 93/109/EC of 6 December 1993.⁵ The 1976 Act concerning the election of the

² With accession to the European Union, Austria obtained the right to elect European Parliament members. Moreover, the Accession Treaty imposed an obligation to hold universal and direct elections to the European Parliament by 31 December, 1996. Hence, on 14 March, 1996, the Federal Law on Elections to the European Parliament was promulgated (*Bundesgesetz über die Wahl*) along with the Federal Law on the electoral roll to the European elections (*Bundesgesetz über die Führung*) as indeed the actual participation in the elections was conditioned by entering voters on the electoral roll, whose maintenance is a municipal task. The first elections to the European Parliament were held on 13 October, 1996. The Austrian People's Party won the election, obtaining 7 out of the 21 seats allocated to Austria in the European Parliament, with a turnout of 67.73% (after: Election Guide CEPPS, Eurostat). See below.

³ The 1994 amendment – an entire new subchapter B in part 1 (art. 23a–23f) was then introduced to the text of the Constitution.

⁴ The European Court of Justice adjudicated that electoral rights are not merely limited to EU citizens. This means that member states, by their national regulations, may extend the right to vote and to stand in elections on people who are not EU citizens but who are in a close relationship with the country. Compare: the judgment of the European Court of Justice on the dispute between Spain and the Great Britain, in the case of electoral rights of citizens residing in Gibraltar and not having citizenship of the Union (C-145/04).

⁵ Directive 93/109/EC of 6 December, 1993 stipulating detailed arrangements to exercise the right to vote and stand in elections to the European Parliament by Union citizens residing in a member state of which they are not nationals. See also the Communication from the Commission to the European Parliament and the Council on the application of Directive 93/109/EC to the June 1999 elections to the European Parliament COM(2000)843 final.

representatives of the European Parliament by direct universal suffrage merely stipulated the general rules (direct elections, proportionality) referring to the electoral laws of the member states in more detailed issues (Grzelak, 2004, p. 24–53); this situation remained until the aforementioned Directive introduced more specific provisions which limited the freedom of the internal legislator significantly. Under Article 3 of the Directive 93/109/EC, the right to vote in the elections to the European Parliament should be conferred on persons who are EU citizens under Article 17 (TEC) and who meet other electoral conditions which are stipulated by a particular state. This right may be conferred, provided the person has resided in the electoral territory of this country for a minimal period, however this condition is deemed to be fulfilled if this person has resided for this period in another member state. In addition, the member state where this person resides may check whether the Union citizen who expressed his/her will to vote in this particular country is not deprived of this right in the country of his/her origin. Whereas the right to stand as a candidate is conferred by the directive on a person who is an EU citizen within the meaning of Article 17 of the TEC, and who meets other conditions concerning the right to vote which are laid down by the particular member state with regard to its own nationals. It was also stipulated in the directive that citizens of the country of residence may only stand as a candidate in the elections provided they held their citizenship for a certain, minimal period of time; however it is deemed that EU citizens have met this condition if they were citizens of one of the member states for this period. Citizens of the country of residence may stand as a candidate in the elections only under the condition of residing for a certain, minimal period of time in the electoral territory. This condition is deemed to be fulfilled if they resided in another member state for this period. In addition, an EU citizen deprived of his/her electoral rights in the country of residence or the country of origin may not stand as a candidate in the elections in another member state, and the country of residence may demand information in this respect from the country of origin.

Additionally, Article 9 imposes an obligation on the country of residence to enter the name of the person willing to exercise his/her right to vote and to stand as a candidate to the European Parliament on the electoral roll on the grounds of the documents which are necessary and relevant to its own citizens. If entry on the electoral roll is refused, a person is entitled to the legal remedies on the same terms as the legislation of the member state of residence prescribes for voters and persons entitled to stand as candidates who are its nationals (Article 11).

Even though these provisions are quite detailed there is still some room for significant differences in the electoral laws of the EU member states, which the Austrian legislator took advantage of. The authors would like to emphasise some legal instruments, both general (electoral law, constituency) and specific (correspondence voting, electoral act) in character which define and distinguish the Austrian electoral system.

Electoral rights

In accordance with Article 23a of the Constitution of Austria, European Parliament members delegated by the Republic of Austria are elected in equal, direct elections, by secret ballot and by voters being present in the polling station under the principle of propor-

tionality. The detailed arrangements for 'European' elections are regulated by the two federal laws: the Law on Elections to the European Parliament and the Law on the Register of Voters to the European Elections. The last elections to the European Parliament were held in Austria on 7 June, 2009. 17 members of the European Parliament were chosen.⁶

Men and women who on the day of the elections hold Austrian citizenship, and under EU law have not been deprived of electoral rights, are eligible to participate in the elections to the European Parliament.⁷ The citizens of other EU member states who are not Austrian citizens but who permanently reside in the territory of Austria and have electoral rights⁸ under EU law may also vote in the elections, provided they were entered on the electoral roll for the European Union elections within the stipulated time.⁹ What distinguishes Austria from other EU member states is that persons who attained the age of 16 on the day of the elections, at the latest, are conferred the right to vote in these elections.¹⁰

Research conducted in January 2007 reveals that 80% of 16–24-year olds were not interested in current political issues (*IMAS-Studie*). Similar conclusions might be drawn from the "Shell-Jugendstudie 2006" Studies (*Shell*), in which only 17% of 16–19-year olds declared an interest in current political matters. The aforesaid research might imply that young people are not interested in politics, which is also confirmed by the studies conducted by the University in Krems (*Donau*) where 59% of the respondents criticised

⁶ At present Austria is represented in the European Parliament by 19 members. The 2009 elections were grounded in the Treaty of Nice, under which the number of seats amounted to 736. After the Treaty of Lisbon and the ratification of additional protocol the total number of the European Parliament members increased up to a transitional 754. The difference in number (by three members of the European Parliament) in comparison to the assumed number under the Treaty of Lisbon (750+1) results from the fact that in line with the Treaty of Nice the Germans elected 99 members, whereas under the Treaty of Lisbon only 96 seats are allocated to them, however they cannot be deprived of them now.

⁷ The reform of electoral law, among other things, included such amendments as depriving persons of the right to vote if they had been convicted by a valid and final court judgment. The legislator, bearing in mind the judgment of the European Court of Human Rights in the case: *Frodl vs. Austria*, adjudicated that the deprivation of the right to vote may be proceeded on the grounds of a valid and final court judgment for an intentional offence for which the deprivation of liberty for up to 5 years is stipulated, or at least of one year imprisonment for particular offences such as: treason, electoral fraud, or participation in terrorist organisations.

⁸ In general, every Union citizen may exercise the right to vote and stand as a candidate if s/he wishes to, after meeting the conditions which the citizens of the receiving country are required to complete. The obligation to participate in the elections in some countries (Belgium, Greece, Luxembourg, Cyprus) is also binding for citizens of other member states residing in their territories. This electoral obligation was abolished in Austria.

⁹ Entry on the electoral roll for the European Parliament elections is made at the request of an interested person who before 1 January of the year in which this person attains the age of 16 and who is not deprived of the right to vote and to stand as a candidate under EU law. At the same time the applicant declares his/her will to elect Austrian representatives in the elections to the European Parliament.

¹⁰ The 2007 Electoral Reform related to, among other things, the extension of the right to vote to people who have attained the age of 16, not 18, as it was before. *Bundesgesetz, mit dem die Nationalrats-Wahlordnung 1992, das Bundespräsidentenwahlgesetz 1971, die Europawahlordnung, das Wählererevidenzgesetz 1973, das Europa-Wählererevidenzgesetz, das Volksbegehrengesetz 1973, das Volksabstimmungsgesetz 1972 und das Volksbefragungsgesetz 1989 geändert werden (Wahlrechtsänderungsgesetz 2007)*, BGBl. I No. 28/2007.

the fact that the voting age had been lowered. One question may be posed here. Why did the Austrian legislator introduce amendments to the right to vote when there were legal doubts concerning the electoral rights of underage people and political objections (*Allgemeines*)?¹¹ On the one hand, lowering the voting age was an important step to increase the participation of young people in political life, but on the other side, it could be perceived as exacerbating the problem of a constantly decreasing electoral turnout.¹²

The Austrian legislator (*Entschliessungsantrag*) assumed, however, that young citizens nowadays face the necessity to take independent decisions which significantly affect their future. This is the outcome of a liberalisation of their upbringing and education. The responsibility of young people for their own actions and decisions has risen considerably. They are also more socially mature. Thus it was assumed that the participation of young people in the democratic process should be reinforced (by lowering the voting age), in this way enabling them to influence the political processes by exercising their right to vote. Lowering the age (to the moment when they attain the age of 16) at which they have the right to vote is the result of changes in the social environment, the involvement of young people in taking responsibility for themselves, and making their own choices: for example, a wide diversity in education levels leads to a variety of life prospects. It is worth noting that in the 2009 elections to the European Parliament (the first elections after the electoral reform was introduced) the turnout among students amounted to 55% (*ISA*),¹³ which in the context of national elections (46.2%) looks promising (*Bundesministerium für Inneres, Angaben*), especially in comparison to the 2004 elections to the European Parliament, as participation increased almost by 4% (*Bundesministerium für Inneres, Angaben*).¹⁴ The possibility to cast a vote is perceived as a right, not an obligation. The critical attitude of young people to the right to vote relates to the merits of the political offer, not to the election itself (Kozeluh, 2008).

The right to stand as a candidate in elections to the European Parliament is conferred on all men and women, who, on the day of the elections, at the latest, have attained the age of 18 and have not been validly and finally convicted for an intentional offence for which the deprivation of liberty for more than one year is stipulated.¹⁵ A person who wants to exercise the right to stand as a candidate to the European Parliament effectively needs to meet specific formal and procedural conditions. The name of this person must be entered on the European Parliament electoral roll at the appropriate time.¹⁶ The nomination of the

¹¹ In accordance with ABGB §21 the person of age is anybody who has attained the age of 18. However, attention should be drawn to the fact that a person who has attained the age of 14 may be held liable for criminal offences.

¹² This is due to the fact that young people are not interested in participating in the elections.

¹³ This was the highest ratio in the research. In the age group of 35–59-year olds 48% of the respondents participated in the elections, 42% of the people over 60, and 40% of the retired.

¹⁴ The turnout in the elections to the European Parliament in the preceding years amounted to 49.40% in 1999 and 42.43% in 2004.

¹⁵ EuWO § 29 sec. 1: removal of the right to stand as a candidate for six months is counted from the moment when the punishment was administered; in the case of a suspended sentence the term is counted from the moment when the judgment became valid and final.

¹⁶ The respective dates are stipulated in the ordinance of the federal government on the organisation and holding of elections.

candidate¹⁷ to the Federal Electoral Commission must include the name of the electoral commission, the name of the party, the first name, the surname, the job description and the address of the permanent abode of the person who is authorised to serve the documents (*Europawahlordnung* – EuWO § 31). Simultaneously, written consent of the candidate to participate in the elections must be submitted and the payment of 3,600 euros should be made to cover the printing costs of official voting cards. The candidature should be supported by the signatures of at least three members of the National Council or one member of the European Parliament¹⁸ or by the signatures of a group of at least 2,600 people who have the right to vote. A candidate who is not an Austrian citizen but who holds the citizenship of another member state is obliged to declare his/her permanent abode, his/her citizenship and possible entry on the electoral roll in his/her country of origin. Moreover, s/he makes a formal declaration that s/he does not stand as a candidate in the country of origin and produces the statement that s/he has the right to stand as a candidate.¹⁹

Electoral system

Elections to the European Parliament in Austria are held according to the principles of proportional representation. It is worth mentioning that for many years the European Parliament made attempts to standardise election laws.²⁰ The uniform rules adopted by the European Parliament in Georgios Anastassopoulos's report, which came into force in 2004, aimed at, *inter alia*,²¹ making the principle of proportionality more common. The new regulations allowed for the system of proportional representation to be used in all member states, including, for the first time, the United Kingdom.

In Austria every voter may cast one vote. S/he may choose not only the party s/he wants to support but also s/he may mark the candidate (on the party's list) who s/he prefers and supports (EuWO § 63 sec. 1), which allows the voter to change the order of candidates on the electoral list. The d'Hondt system (largest average) is used while allocating the seats, i.e. taking into consideration the number of preferential votes. Only those par-

¹⁷ Up to 44 days (by 5 p.m.) before the day of the elections EuWO § 30.

¹⁸ If any of the National Council members or the European Parliament members agreed to support several candidates only this support which was provided as the first one is recognised EuWO § 30 sec. 2.

¹⁹ EuWO § 31 sec. 3–4.

²⁰ There were many proposals submitted in this matter, like Jean Seitlinger's report suggesting a mixed system, the system of proportional representation in multi-member constituencies; Reinhold Bocklet, the rapporteur of the Uniform Electoral Procedure Commission (1984–1989) moved a proposal to adopt a system of proportional representation with single or multi-member constituencies and an obligatory voting threshold of 5%. He also suggested introducing the requirement of possessing citizenship to vote or to stand as a candidate in the elections. On the grounds of the recommendations from the Karel de Guchta commission it was agreed that the seats to the European Parliament should be allocated according to the system of proportional representation and rights to vote and to stand as a candidate in elections should be grounded on the principle of abode.

²¹ They also aimed at encouraging the members of the European Parliament to establish closer contacts with voters.

ties which win more than 4% of the votes cast qualify for the allocation of seats. To obtain a seat under the preferential principle the candidate must gain such number of votes which corresponds to at least 7% of the total votes validly cast for a particular list. A voter while casting his/her vote on a particular vote may show preference towards a particular candidate to obtain the seat on this particular list. The voter may then put the particular candidate's surname²² in a specially designated place on the voting card. If a voter appoints more than one candidate or the candidate of a different party, the vote is deemed not to be cast (EuWO § 63 sec. 3). The electoral law to the European Parliament regulates the issue of the validity of the cast vote in a detailed way.

In accordance with EuWO § 65 a vote is invalid if it is cast on anything other than the official card, or the voting card has been damaged in that way that it is impossible to read without any doubts, which party the voter supported. A vote is also invalid when no particular party or no particular candidate is indicated, or more than one political party is indicated, or the marks the voter put on the card are not clear enough to state without doubt which electoral commission was chosen.

The whole system of electoral authorities (district, municipal, local electoral commissions, regional electoral commission and the Federal Electoral Commission whose works are led by the Federal Minister of Foreign Affairs) (Schambeck, 1997, p. 50–51)²³ is arranged to hold the elections for members to the European Parliament. The elections are scheduled for a Sunday or another public holiday. This is the most popular solution, although it is worth mentioning that in the Netherlands and in the United Kingdom elections are held on Thursdays. Scheduling the elections for Sunday or another public holiday by the Austrian legislator is grounded in the electoral tradition in this country. The competence to call the elections is vested in the Federal Government, who, in agreement with the Main Commission of the National Council in the form of an ordinance, fixes the time of the elections and the day on which all terms of the so-called electoral calendar are counted.

As far as organisation is concerned, European elections are held similarly to the elections to the National Council. This mainly refers to the possibility to vote by correspondence or by means of voting package which authorises the voter to cast a vote outside of the voter's polling station (respective to the voter's place of residence). Special electoral commissions are set up to enable people who are bed-ridden to participate in the elections. These commissions visit these people on the day of the elections.²⁴ To minimise the risks of misconduct while correspondence voting, it was agreed that those people who applied for a voting package and who reside in nursing homes will be served the voting package personally. In this case, substitute delivery is expressly restricted (EuWO § 27 sec. 5). Moreover, a voting package served by a courier cannot be picked up immediately.

²² Under EuWO § 63 sec. 2, in the case where more than one candidate possess the same surname, it is required to additionally specify the preferred candidate, putting on the list e.g. the number, first name, the year of birth, profession or address.

²³ These are the same commissions whose composition was formed for the need of the elections to the National Council which were held recently. During the Council's term of office they perform certain tasks, e.g. fill those seats which are empty, and function until new commissions are constituted.

²⁴ These are so-called 'flying' electoral commissions.

This is to prevent the situation in which the voter's decision might be affected by the fact that s/he would have to cast a vote in the presence of the courier.

A voting package is a white, sealed envelope. There is an official voting card inside along with beige, rubbery, opaque envelope for a voting card.²⁵ A voter (who probably is unable to vote on the day of the elections before their competent electoral committee²⁶) may apply to be issued a voting card. The application is submitted to the municipal authorities on whose electoral roll the voter is entered. The application may be submitted orally²⁷ or in writing by mail, fax or email starting from the day on which the elections were announced. The written application may be submitted by the fourth day before the elections at the latest, whereas an oral application should be submitted two days before the elections by midday. People staying abroad may also apply for a voting package in Austrian embassies and consulates. The package can be picked up in person, via a courier, or it can be sent by post. Voting packages are sent three weeks before the election day. Voters who do not pick up the voting packages which were left for them at post offices obtain 'a second chance' to participate in the elections. The municipal authorities take the uncollected packages and hold them in deposit for voters who may collect them on the election day. The Federal Ministry of Foreign Affairs informs the voters, for example by means of telephone hotline, where their packages are deposited (EuWO § 27 sec. 8). The issuance of a voting package should be clearly marked on the electoral roll.

Thanks to a voting package, a voter may cast a vote before an electoral commission, i.e. in any polling station, or before a special commission or by post. The procedure is as follows: a voter completes the official voting card, seals it in the beige envelope provided and places it in the returnable envelope enclosed in the package. Then by his/her own signature s/he declares that s/he cast his/her vote in person, independently and in secret before the Austrian polling stations were closed. Due to numerous mistakes relating to the place, the day and the time of the election which affected the validity of voting packages, this statutory condition was abolished. This condition was limited to the necessity of including the voter's signature. An ongoing debate on the problem of correspondence voting, the principle of secret and personal voting, and statutory guarantees to implement both aspects of action are also noteworthy. Before this method was introduced, the doctrine of Austrian law and the standpoint of the Constitutional Tribunal had strongly emphasised the possibility of conflict between this method of casting a vote and the principles of secret voting and casting a vote in person.

The Constitutional Tribunal, in its 1985 judgment (*Verfassungsgerichtshof*) on correspondence voting stated, on the grounds of the binding Constitution, that a voter may not be burdened with preserving the principle of secrecy. On the grounds of the obligation included in the Constitution, according to which a voter had to be physically present in the

²⁵ Under EuWO § 27 sec. 3, appropriate technical measures should be undertaken to provide due protection of a voter's personal data.

²⁶ Due to illness, absence from the place of residence or going abroad. Voting cards are also issued for people who will be voting before special electoral commissions (EuWO § 26).

²⁷ EuWO § 27 sec. 1: "[...] mündlich [...] zu beantragen. Eine telefonische Beantragung ist nicht zulässig. [...]" – the expression "orally" should be interpreted as personal presence, as the legislator excludes the possibility of submitting an application by telephone.

polling station, the Tribunal stated that correspondence voting would not be in compliance with the Constitution. Thus the introduction of this voting method would entail the need to amend the Constitution. This amendment was, however, made in 2007. The constitutional amendment (*Verfassungsnovelle*, 2007), apart from other modifications, introduced the possibility of correspondence voting. The Austrian legislator stated that the introduction of this method of voting would reinforce the principle of universality of election and would positively affect electoral turnout. Electoral law implements the principle of secrecy of elections by means of the regulations on the usage of opaque envelopes in which voting cards are put, or the obligation to recommend the voter to go to a place where secrecy of voting is provided. Most lawyers also claim that the principle of secret voting does not mean that a voter may not cast a vote publicly if s/he wants to. The statutory condition to establish a voter's identity realises the principle of voting in person.

A person staying abroad may cast a vote – sending a voting package by post only. It is also possible to present this package to Austrian embassies and consulates up to 6 days before the election starts.²⁸ The authority then sends this card to the respective district electoral commission. If the voting package is delivered later than the aforementioned date it will still be sent to the respective district commission, provided it is possible to deliver it in time. At present, the complicated procedure of casting a vote abroad (which involved the confirmation of a local notary or the head of an Austrian embassy or consulate, or of two Austrian people possessing electoral rights) is not required. A voting package must reach, or be delivered to the respective district electoral commission by 5 pm on the election day at the latest (EuWO § 46 section 2). This condition was introduced by *Wahlrechtsänderungsgesetz 2011*. The former provision which allowed for the voting package to be delivered by 12 pm (midday) of the eighth day after the election enabled a vote after the electoral commissions were closed, i.e. after the preliminary results of the elections had been announced.

Uniform constituency

The European Act on Elections to the European Parliament stipulates that any electoral procedure, including the principles of forming constituencies, in every member state falls under national law. According to EuWO § 3, the territory of Austria constitutes a uniform constituency. The Austrian legislator followed the guidelines contained in the directive (*Regierungsvorlage*) [Article 2(2) of the Council Directive 93/109/EC of 6 December 1993] which states that “electoral territory” means the territory of a member state in which, in accordance with the electoral law of the member state, members of the European Parliament are elected by the people of that member state. This solution, mainly known in the elections for monocratic authorities, is sometimes found in the elections of

²⁸ The package should be delivered to an Austrian embassy or consulate up to 9 days before the elections in a country which is not a member of the European Economic Area. This requirement does not apply in Switzerland.

collective authorities. The drawback of the latter approach is that the power of votes of less populated regions is 'weakened'. In extreme cases, it may even mean that some residents will be deprived of having their representative in the parliament. It seems, however, that the case of the elections to the European Parliament is not an argument against Austrian electoral law. In fact, a similar objection could be raised against any elections, and the criterion would only be different, e.g. political views.

Conclusion

To conclude, the Austrian regulations which stipulate the preparations and holding of the elections to the European Parliament, although falling under EU laws and under generally accepted democratic standards, also contain specific solutions which are rarely, or at least uncommonly found in other states. The authors would, in particular, like to pay attention to two issues: the lowering of the age of eligibility to vote, and the single constituency electoral system. These Austrian solutions might be valuable to refer to in the countries where a system of correspondence voting is just being introduced. These resolutions are particularly interesting, taking into consideration prospective, possible amendments to the electoral laws of EU member states. However, one more scenario should be borne in mind here, despite the lack of similar proposals in particular countries, i.e. the more detailed unification of electoral laws, or even the adoption of a uniform electoral law for all member states, which has been postulated by the EU authorities for years, could take place.²⁹ This may result in the transposition of solutions proposed in other EU states, among which the Austrian ones could be considered, at the very least, somewhat innovative.

Preparing a uniform electoral system will not be an easy task. This can be seen if we examine closely the electoral laws applied in member countries, it is clear that it is possible to formulate the procedures of the elections to the EP in various ways, and simultaneously not to violate the fundamental principles of voting rights. It seems reasonable to assume that a considerable part of the issues concerning operating European elections will be standardised without major obstacles. Naturally, though, there will be cases that will be difficult to resolve, if only because of idealistic views.

The problem of sex parity can serve as an example here (at present Belgian, French & Slovenian laws contain regulations concerning sex parity) or the issue of compulsory participation in elections. Many countries, like Austria, are working on implementing on-line voting (e-voting)³⁰ and the alternative of voting by proxy, as is possible in Belgium, France, the Netherlands, Sweden and Great Britain. Undoubtedly, future, uniform elections to the EP will be a result of the achievements of all EU countries.

²⁹ Compare: The Preamble to the Directive of the Council 93/109/EC of 6 December 1993.

³⁰ On-line voting caused a lot of controversy when it was introduced in Estonia along with the EP elections in 2009. Estonia has also used on-line voting in local (2005) and parliamentary (2007) elections. E-voting is a part of a bigger project – STOA – considering e-democracy.

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Specyfika systemu wyborczego do Parlamentu Europejskiego w Republice Austrii

Streszczenie

Republika Austrii, 1 lutego 1994 r. podpisała traktat akcesyjny i z dniem 1 stycznia 1995 r. stała się pełnoprawnym członkiem Unii Europejskiej. Członkostwo zobowiązało Austriaków do “dostarczenia” Wspólnocie odpowiednich osób do objęcia różnych stanowisk w różnych unijnych organach. Nie inaczej było także w przypadku Parlamentu Europejskiego. Ważnym aspektem stało się dostosowanie poszczególnych norm ustawowych i własnej konstytucji do nowych rozwiązań. Celem niniejszego opracowania jest właśnie przedstawianie austriackich rozwiązań w tym temacie na tle rozwiązań europejskich, ze szczególnym uwzględnieniem unormowań rzadko spotykanych lub wręcz odrębności systemu Republiki Austrii. Rzecz wydaje się być interesująca zarówno z punktu widzenia praktyki ustrojowej państw członkowskich Unii Europejskiej, jak i z punktu widzenia czytelnika. To drugie podejście pozwoli na ocenę austriackich rozwiązań na tle niedawno wprowadzonej ordynacji wyborczej do PE zawartej w Kodeksie Wyborczym, ale również może podsunąć pewne pomysły, co do przyszłych nowelizacji. Autorzy zwrócili szczególną uwagę na dwa rozwiązania: obniżenie cenzusu wieku czynnego prawa wyborczego oraz jednookręgowy system wyborczy. Austriackie doświadczenia mogą być również pomocne państwom, które wprowadzają możliwość głosowania korespondencyjnego. Są to propozycje szczególnie interesujące z punktu widzenia przyszłych, możliwych nowelizacji systemów wyborczych państw członkowskich.

Słowa kluczowe: Austria, wybory, Parlament Europejski, ordynacja wyborcza, prawa wyborcze