



Council of the European Union

PRESS
EN

BACKGROUND¹
Brussels, 13 April 2018

GENERAL AFFAIRS Council

Tuesday 17 April in Brussels

Starting at 14.00, the Council will discuss **amendments to the 1976 Electoral Act** with a view to approving the text to be transmitted to the European Parliament. The debate will be held in public session.

Ministers will then be informed about the situation as regards **the rule of law in Poland**.

Under any other business the Commission will be invited to present to the Council its new **enlargement package**.

A presidency press conference will be held at the end of the meeting (+/- 17.30).

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¹ This note has been drawn up under the responsibility of the press office.

Reform of the Electoral Act

The Council will discuss amendments to the [1976 Electoral Act](#) which lays down certain common rules concerning elections to the European Parliament. It will seek to reach an agreement in principle on the text to be transmitted to the European Parliament for consent, once it will have been put in the appropriate legal form.

The discussions within the Council have been based on a proposal adopted by the European Parliament in November 2015.

One of the key proposals concerned the establishment of an obligatory minimum threshold for elections to the European Parliament. The Parliament proposed to set a threshold of 3% at constituency level for member states in which the list system is used and which have constituencies with more than 26 seats.

The current Electoral Act allows member states to set, on a voluntary basis, a minimum threshold for the allocation of seats. At national level this threshold may not exceed 5 per cent of votes cast. The discussion in the Council is expected to focus on a compromise providing for an obligatory threshold of 2% to 5% for constituencies with more than 35 seats.

The procedure for the adoption of amendments to the 1976 Electoral Act is laid down in Article 223(1) TFEU, which gives the European Parliament the right to draw up a proposal for its electoral procedure. The necessary provisions are decided by the Council acting unanimously after obtaining the Parliament's consent. The provisions enter into force after their ratification in the member states.

Any changes to the Electoral Act would have to be adopted by mid-2018 at the latest for member states to be able to apply them for the 2019 EP elections.

Rule of law in Poland

The Council will discuss the situation with regard to the rule of law in Poland.

On 20 December the Commission published its [reasoned proposal under Article 7\(1\)TEU](#) on the rule of law in Poland. The reasoned proposal contains a detailed explanatory memorandum as well as a proposal for a Council decision which (i) determines that there is a clear risk of a serious breach by Poland of the rule of law and (ii) enumerates recommendations with a three-months deadline for Poland to bring its judicial reform in line with rule of law standards, by:

- restoring the independence of the Constitutional Tribunal,
- publishing and implementing specific judgments of the Constitutional Tribunal,
- amending the four laws recently adopted (National Judiciary Council, Supreme Court, National School of Judiciary, Ordinary Courts) in order to restore the independence of the judiciary,
- ensuring that any justice reform is prepared in close cooperation with the judiciary and all interested parties, including the Venice Commission, and
- refraining from further undermining the judiciary.

In parallel with submitting its reasoned proposal to the Council on 20 December 2017, the Commission also highlighted its determination to pursue the dialogue with Poland and issued recommendations for action by 20 March. Should Poland take remedial action within this deadline, the Commission indicated that it would reconsider its reasoned proposal.

At the Council meeting, the Commission is expected update the ministers on the latest developments in its dialogue with the Polish authorities.

Any other business

Enlargement package

The Commission will be invited to present to the ministers its enlargement package, due to be adopted the same day.