



Strasbourg, 9 March 2015

Study No. 764/2013

CDL(2015)017\*  
Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**COMMENTS**

**ON**

**PROPORTIONAL ELECTORAL SYSTEMS:  
THE ALLOCATION OF SEATS INSIDE THE LISTS  
(OPEN/CLOSED LISTS)**

**by**

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## Open List Study

### Contribution to the Third Part by

Kåre Vollan  
6 November 2014

#### From the project description:

##### “Third part

1. The third part of the study should cover specifically the methods of allocation of seats inside the lists, i.e. the effect of votes on the allocation of seats (based on the attached table, column G).
2. Among other issues that can be developed in this part, what does happen for instance if the voter does not use his/her preference right, partly or at all?
3. The study should take into account other elements than the electoral system as such, in particular the types of constituencies (nationwide constituency or several constituencies) and the thresholds when applied (national or local thresholds) and for both the limitations they can produce in the choice of the voters.”
4. The following represent some elements for the discussion. Since much work has already been done on the report I have concentrated on the more complex areas.

#### 1. The Open List Systems

5. Open lists means that the voter has a choice of candidates to be represented by the party within a List PR system. The number of seats is determined by the proportional share a party wins of the votes and the open lists is determining which candidates of the party should fill the seats won by the party.
6. There are several ways open lists are implemented, from an option of a single vote for a candidate within the list to possibilities for cross list voting. There are also systems where the candidates are not selected from predefined lists but rather from nomination districts as in Denmark and Romania. In Denmark parties may choose to have predefined lists, but if they do not, their system is very close to the Romanian one.
7. The candidates may or may not be ranked by the parties. In Denmark (for those parties not filing a list) and Romania the candidates running in the Nomination districts are not ranked across the districts. One may also have candidate lists which are simply alphabetical or listed in any other way which is not ranked, and it is purely up to the voter to decide who should fill a party's seats.
8. Often the candidates' lists are ranked and the voters' preference may change that ranking under certain circumstances. The conditions for change represents a balance between the parties wish to protect their leaders and to determine their own candidates, hopefully according to a democratic process within the party, and letting the voters making the choice. Both extremes, closed lists and fully open, are legitimate systems. In closed lists the voters have a choice between a number of alternative lists, but will have to accept the sequence given by the party. With open lists, the accountability increases since the vote can chose both the political party and individual candidate(s). The balance is the subject of this study.

9. Single Transferable Vote (STV) is a proportional system without party lists. Voters will rank individual candidates according to their preference and if all voters follow party loyalties the result will be proportional in party terms. The choice of candidates will be as per the voters' choice. One may therefore regard STV as an open list proportional system, but without lists. The system is used only in Ireland in Europe and the calculation is fairly complicated so the constituency magnitude is normally limited to around five. This system is not further discussed in this study.

#### *1.1 One candidate vote*

10. In countries like the Netherlands and Finland the voter *has to* vote for an individual candidate. The vote is at the same time counted as a vote for the party, when the distribution of seats among parties is done. In other countries like in Denmark the voter may choose to vote for a party only, or for a single candidate.

#### *1.2 Several extra votes and deletions*

11. In some countries a voter may give several votes. In other the voters may explicitly change the ranking given by the party by moving for example number ten to number to. This is the case in Norway and the voters may change as many candidates as s/he wants. In addition voters may delete candidates from the list. In Bosnia and Herzegovina the voters may choose a party only, or in addition give individual votes to as many as he or she wants on the list.

#### *1.3 Cross party votes*

12. In some countries the voters may mix candidates from lists of different parties, but that is not common in national elections. (Local elections in Norway are an example.)

#### *1.4 Nomination districts*

13. Denmark and Romania have systems with certain similarities. Candidates are nominated in single-member constituencies (Nomination districts) but the ones with the highest number of votes are not necessarily elected. The total number of seats in parliament is distributed to parties according to their proportional share of the national results. After that the seats won by each party is distributed to multi-member constituencies, and in the end filled by candidates running in single-member constituencies according to their votes. One difference between the two systems is that in Romania a candidates winning more than 50 per cent of the votes in a single-member constituency is elected even if a party is not entitled to seats in the concerned constituency. That is not the case in Denmark. In Denmark the parties have several options on how to nominate candidates, including forming party lists based upon their candidates in the Nomination districts. In such case there is a threshold for when the votes will over-ride the party sequence of the list.

14. The system in Romania is sometimes called a modified mixed member proportional (MMP) (by for example IFES and IPU) but one could also argue that it is a PR system in multi-member constituencies with compensation, which is the most obvious classification of the Danish system. MMP would normally (but not always) give the voter two choices, one for the single-member constituency and one for the List PR election. It is further common to calculate the single-member constituency results first, without looking at the PR results, and then top up the results to make it proportional. In Romania only if candidates win more than 50 per cent of the votes the constituency result is final. Otherwise the results are determined by the national vote in first hand and then seats are filled to parties entitled to seats in a multi-member constituency based upon the individual candidate votes.

15. Regardless of the name of the over-all system, the common feature is that voters vote for individual candidates, in Romania always, and in Denmark it is an option. (In Denmark there is an option to give a party vote only.) If the voter gives an individual vote they give it to a candidate in a nomination district. In many ways it will appear to be a single member district

election, but the one faring best in the district will only win the seat if the party is entitled to a seat in that multi-member constituency and if the candidate is doing better than the party's candidates in other Nomination districts.

16. For example the largest party may have the candidate with the highest number of votes in all nomination districts but the proportional share of the votes for the party will decide how many of these will be elected.

### *1.5 The Ballots*

17. With open lists the ballot design is a challenge. With closed lists only the party name needs to appear on the ballot. With open lists, the voter must be given the opportunity to cast a vote for a candidate as well. If all candidates of all parties are to appear on one ballot, it may become very large. This is the case in for example Bosnia and Herzegovina. In other countries, like in Finland, the problem is solved by giving a number to all individual candidates and the voter enters the number of the preferred candidate on the ballot, which count both for the individual vote and for the party vote. In that case the voter only cast one individual vote and lists of all candidates need to be posted in the polling station. The parties and candidates would also use the numbers in their campaign to ensure that the voters know how to vote. If voters are given more extensive choices that would not work. In Norway the ballot problem is solved by printing separate ballots for each party. All ballots will be available in the polling booth and the voter will take the ballot of the preferred party. If it is cast unchanged it is counted as a vote for the party's priority, but the voter may also change the sequence and delete candidates from the list.

## **2. The Effect of the candidate vote**

### *2.1 Plurality vote within lists*

18. The most common way to determine the result is to count the number of individual votes given to candidates and let the one(s) with the highest number of votes win the seats. This may be done regardless of whether the voter may be permitted one or several votes.

### *2.2 Thresholds*

19. However, often there is a barrier for changes to come into effect. In some places where the individual votes within a list are counted, a candidate needs to pass a percentage of the votes to move up the list. Otherwise the party's priority remains. In Bosnia and Herzegovina it is five per cent, in Bulgaria seven per cent. These are moderate thresholds which gives good possibilities for voters' influence.

20. If there is no threshold there is a possibility for a relatively small, organised group to determine who should fill the seats. This combined with not making the individual vote mandatory, this may easily happen, since voters accepting the party's priorities may not give an individual vote. (In the municipality of Asker in Norway more than half of the elected representatives elected were women in 1971, due to an action by women activists. Threshold were later introduced, but then later removed again.)

21. If the individual vote is mandatory, it is less likely that a small organised group can decide who will fill the seats across parties.

22. In Denmark, a party may choose to run only by candidates in the Nomination districts or by forming lists of such candidates across multi-member constituencies. If the party has opted for a list, a candidate needs more than an election quotient (the number of votes for the party / (number of seats for the party + 1)). If for example a party has won one seat the candidate needs more than half the votes to be elected. If a party has won four seats the candidate needs more than 20 per cent of the party's seats in order to change the party's priority. In other words, the party may opt for an alternative where the voters have comparatively small possibilities to

change the order of the list. However, if the party does not choose to have a predefined list of the multi-member constituency, the voters has a lot of influence since in such case the ones with the highest number of votes are elected without a threshold.

23. In Netherlands, the threshold is also dependent on the election quotient applied to the list: (Number of votes cast for a list / number of seats won) and if nineteen or more it is a quarter of the quotient. That means that if a list has won only one seat more than half must have voted for a candidate for him or her to be elected. Otherwise, the first on the list is elected. If 20 seats are to be elected, it is sufficient for a candidate to win more than 1.25 per cent to compete for the seats according to the individual votes.

24. In Norway where the voter may give a priority number to a candidate, the candidate with the highest number of number one positions is placed first. However, those ballots where the voters have made no changes count as a vote for number one. Therefore, more than half of the voters must make the same or a better change. This never happens and therefore Norway for all practical purposes has a closed list system, even if the voters may make a number of changes.

### *2.3 Preferential voting*

25. They had this earlier in Peru, but it seems to have been changed?

### *2.4 Quotas for gender balance or other quotas*

26. In some countries, like in Bosnia and Herzegovina, there are requirements for gender balance on the list. One of the two first on the list need to come from each gender, and two out of the first five, three out of the first eight, etc. At the same time, Bosnia and Herzegovina has an open list system, with a five threshold for the voters' choice to take effect. There is a risk that the voters will change the representation in favour of the dominating gender. This has been accepted so far in the country but one could make rules restricting the voters' influence so that the pre-set gender balance is not disturbed.

### *2.5 Competition within a party*

27. Open lists introduces a competition among candidates of the same party. In most countries this gives incentives for a positive campaign by the candidates, all fighting for the parties' platform against other parties. There is a risk, however, that candidates direct their campaign against fellow candidates of the same party. This can lead to personalisation of politics reducing the importance of platforms and ideas. This was a complaint in Peru [when they still had open list???

### *2.6 Constituencies*

28. List PR is carried out in multi-member constituencies, either with the whole country as a single constituency like in Slovakia and Netherlands, or with the country divided in a number of geographical constituencies. With the exceptions of Denmark (under one of the defined options) and Romania, the candidate lists are local to the constituencies. If the whole country is one constituency there is no guarantee that there are candidates from all over the country and in some areas the voters may not know the candidates, even though the incentives of PR is to be inclusive. The open list option may then be less efficient, but otherwise there is no difference in applying open lists to local constituencies or to the country as whole.