

European Parliament resolution on the exercise of the right to vote and stand as a candidate for EU citizens (26 September 2007)

Caption: European Parliament resolution of 26 September 2007 on the proposal for a Council directive amending Directive 93/109/EC of 6 December 1993 as regards certain detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals.

Source: European Parliament, European Parliament legislative resolution of 26 September 2007 on the proposal for a Council directive amending Directive 93/109/EC of 6 December 1993 as regards certain detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (COM(2006)0791 - C6-0066/2007 - 2006/0277(CNS)), in Official Journal of the European Union (OJEU). 28.08.2008, n° L 219 E, p. 193. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:219E:0193:0200:EN:PDF>.

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Last updated: 15/05/2014

Wednesday 26 September 2007

Article 35

Entry into Force

This Regulation shall enter into force on the *twentieth* day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., on ...

For the European Parliament
The President

For the Council
The President

P6_TA(2007)0410

Right to vote and stand in elections to the European Parliament for Union citizens residing in a foreign Member State *

European Parliament legislative resolution of 26 September 2007 on the proposal for a Council directive amending Directive 93/109/EC of 6 December 1993 as regards certain detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals (COM(2006)0791 — C6-0066/2007 — 2006/0277(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2006)0791),
- having regard to the Communication from the Commission (COM(2006)0790) ⁽¹⁾,
- having regard to the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage ⁽²⁾,
- having regard to Regulation (EC) No 2004/2003 of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding ⁽³⁾,
- having regard to Article 39 of the Charter of Fundamental Rights of the European Union ⁽⁴⁾,
- having regard to Article 19(2) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0066/2007),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0267/2007),

⁽¹⁾ European elections 2004, Commission report on the participation of European Union citizens in the Member State of residence (Directive 93/109/EC) and on the electoral arrangements (Decision 76/787/EEC as amended by Decision 2002/772/EC, Euratom).

⁽²⁾ OJ L 278, 8.10.1976, p. 5.

⁽³⁾ OJ L 297, 15.11.2003, p. 1.

⁽⁴⁾ OJ C 364, 18.12.2000, p. 1.

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1. Approves the Commission proposal as amended;
2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
5. Instructs its President to forward its position to the Council and Commission.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS
BY PARLIAMENT

Amendment 1

RECITAL 1

(1) The Commission report on the application to the 2004 elections of Council Directive 93/109/EC laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals revealed the need to amend certain provisions of the Directive.

(1) The Commission report on the application to the 2004 elections of Council Directive 93/109/EC laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals revealed the need to amend certain provisions of the Directive. ***Union citizenship guarantees the same rights for all EU citizens, whether they were born, or live, in the Union itself or in a third country. The Community institutions must therefore be vigilant in ensuring that citizens of the Union resident in a Member State other than their own are able to exercise their rights in the case of elections to the European Parliament.***

Amendment 2

RECITAL 1A (new)

(1a) The increasing mobility of people across the internal borders of the Union reinforces the need to provide fully portable democratic rights in the case of both European Parliamentary and municipal elections, as well as the need to ensure that citizens do not lose their democratic rights because they live in a Member State other than their own.

Amendment 3

RECITAL 2A (new)

(2a) The latter prohibition goes beyond what is necessary to ensure that citizens of the Union are not discriminated against on grounds of nationality when exercising their right to stand as a candidate. Member States should have the discretion to decide whether to allow candidacies in more than one State for the same election, and political parties should be left to decide whether to encourage such multiple candidacies.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 4

RECITAL 2B (new)

(2b) The Act of 20 September 1976 concerning the election of members of the European Parliament by direct universal suffrage⁽¹⁾ provides that, where the primary law is silent, electoral law shall be subject to national provisions; moreover, the primary law expressly prohibits multiple voting but is silent on the issue of multiple candidacy.

⁽¹⁾ OJ L 278, 8.10.1976, p. 5. Act as last amended by Council Decision 2002/772/EC, Euratom (OJ L 283, 21.10.2002, p. 1.).

Amendment 5

RECITAL 3A (new)

(3a) The mandatory recognition, by the Member State of residence, of a disqualification with regard to the right to stand as a candidate is an additional condition for the exercise of that right, which is not covered by either the letter or the spirit of Article 19(2) of the EC Treaty. The Member State of residence should be entitled to establish whether an individual would have been deprived of the right to stand for election under the national law of that State under the same circumstances and in the same manner, and to decide on its own behalf whether to recognise the disqualification applicable in the home State.

Amendment 6

RECITAL 3B (new)

(3b) The Council should not go beyond the intention expressed in the primary law provisions, and the 'detailed arrangements' prescribed in Directive 93/109/EC under the terms of Article 19(2) of the EC Treaty should be limited to what is strictly necessary in order to give effect to the two intended rights, i.e. the right to vote and to stand for election in a State other than one's own, and should not introduce conditions for the exercise of those rights other than, or in addition to, those provided for in the law of the State of residence.

Amendment 7

RECITAL 5

(5) The requirement for candidates to submit this attestation should accordingly be abolished and replaced by an item to that effect in the formal declaration that candidates must produce.

(5) The requirement for candidates to submit this attestation should accordingly be abolished and replaced by an **optional** item to that effect in the formal declaration that candidates must produce.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 8

RECITAL 6

(6) *Host Member States should be placed under an obligation to notify the home Member State of this declaration in order to ensure that the Community candidate was not actually deprived of this right in the Member State of origin.* **deleted**

Amendment 9

RECITAL 9

(9) The exchange of information should accordingly be abolished but the obligation for the voter **or candidate** to produce a declaration undertaking to exercise his right to vote **or to stand as a candidate** only in the Member State of residence should be maintained.

(9) The exchange of information should accordingly be abolished but the obligation for the voter to produce a declaration undertaking to exercise his right to vote only in the Member State of residence should be maintained.

Amendment 10

RECITAL 10

(10) Moreover, **as a deterrent to voting or standing as a candidate twice and to exercising the right to vote or stand despite being deprived of these rights**, Member States of residence should take measures to ensure that **violations of the obligations** provided for by the Directive are subject to proper **penalties**.

(10) Moreover, Member States of residence should take measures to ensure that **inaccuracies in formal declarations made by citizens of the Union and** provided for by the Directive are subject to proper **sanctions**.

Amendment 11

RECITAL 10A (new)

(10a) **Member States have a duty, under Article 12 of Directive 93/109/EC, to fully inform citizens of the Union of their right to vote and to stand as a candidate in their Member State of residence in good time before each European Parliamentary election; Member States should be supported by the European Parliament and the Commission, and by political parties at both European and national levels, in choosing best practice in that regard, in order to improve the degree of participation in the elections.**

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 12

RECITAL 11

(11) In the report that it is required to prepare on the application of the amended Directive to the elections to the European Parliament in 2009, the Commission, on the basis of the information provided by the Member States, should base its analysis in particular on the results of checks and inspections conducted by the Member States after the elections with a view to measuring the frequency of *double* voting **and double candidacies**, if any.

(11) In the report that it is required to prepare on the application of the amended Directive to the elections to the European Parliament in 2009, the Commission, on the basis of the information provided by the Member States, should base its analysis in particular on the results of checks and inspections conducted by the Member States after the elections with a view to measuring the frequency of *multiple* voting, if any.

Amendment 13

RECITAL 12

(12) A routine check of all the votes **and of all the candidacies** would be disproportionate to the problems identified, and there would be problems of feasibility since there are in the Member States no uniform electronic methods of recording and storing data on the actual turnout at the poll **and on the candidacies deposited**; Member States should accordingly target their checks on the situations where there is a greater probability of *double* voting **or double candidacies**,

(12) A routine check of all the votes would be disproportionate to the problems identified, and there would be problems of feasibility since there are in the Member States no uniform electronic methods of recording and storing data on the actual turnout at the poll; Member States should accordingly target their checks on the situations where there is a greater probability of *multiple* voting,

Amendment 14

ARTICLE 1, POINT 1A (new)
Article 3 (Directive 93/109/EC)

(1a) Article 3 shall be replaced by the following:

Article 3

Any person who, on the reference date:

- (a) is a citizen of the Union within the meaning of Article 17(1) of the Treaty;**
- (b) is not a national of the Member State of residence, but satisfies the same conditions, in respect of the right to vote and to stand as a candidate, as that State imposes by law on its own nationals,**

shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State of residence, unless precluded from exercising those rights by the Member State of residence pursuant to Articles 6 and 7.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Where, in order to stand as a candidate, nationals of the Member State of residence must have been nationals for a certain minimum period, citizens of the Union shall be deemed to have met that condition when they have been nationals of a Member State for the same period.

Amendment 15

ARTICLE 1, POINT 1B (new)
Article 4, paragraph 2 (Directive 93/109/EC)

(1b) In Article 4, paragraph 2 shall be replaced by the following:

2. Community voters may stand as a candidate in more than one Member State for the same election, as long as the law of the Member State of residence does not exclude that possibility in respect of its nationals, and the Community voter satisfies the conditions in respect of the right to stand as a candidate as provided for in the law of the other Member State concerned.

Amendment 16

ARTICLE 1, POINT 2, POINT (-A) (new)
Article 6, paragraph 1 (Directive 93/109/EC)

(-a) paragraph 1 shall be replaced by the following:

1. The Member State of residence may provide that citizens of the Union who, through an individual criminal or civil law decision, have been deprived of the right to stand as a candidate under the law of their home Member State, are to be precluded from exercising that right in the Member State of residence in elections to the European Parliament if they would have been deprived of that right under the national law of that State for the same misdemeanour and in the same manner.

Amendment 17

ARTICLE 1, POINT 2, POINT (A)
Article 6, paragraph 2 (Directive 93/109/EC)

2. The Member State of residence **shall** check whether the citizens of the Union who have expressed a desire to exercise their right to stand as a candidate there have not been deprived of that right in the home Member State through an individual civil law or criminal law decision.

2. The Member State of residence **may** check whether the citizens of the Union who have expressed a desire to exercise their right to stand as a candidate there have not been deprived of that right in the home Member State through an individual civil law or criminal law decision.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 18

ARTICLE 1, POINT 2, POINT (B)
Article 6, paragraph 3 (Directive 93/109/EC)

3. For the purposes of paragraph 2 of this Article, the Member State of residence **shall** notify the home Member State of the declaration referred to in Article 10(1). To that end, the relevant information that is normally available from the home Member State shall be provided in good time and in an appropriate manner; such information may include only details which are strictly necessary for the implementation of this Article and may be used only for that purpose. **If the information provided invalidates the content of the declaration, the Member State of residence shall take the appropriate steps to prevent the person concerned from standing as a candidate.**

3. For the purposes of paragraph 2 of this Article, the Member State of residence **may** notify the home Member State of the declaration referred to in Article 10(1). To that end, the relevant information that is normally available from the home Member State shall be provided in good time and in an appropriate manner; such information may include only details which are strictly necessary for the implementation of this Article and may be used only for that purpose.

Amendment 19

ARTICLE 1, POINT 2A (new)
Article 7 (Directive 93/109/EC)

(2a) Article 7 shall be replaced by the following:

Article 7

1. **The Member State of residence may provide that citizens of the Union who, through an individual criminal or civil law decision, have been deprived of their right to vote under the law of their home Member State, are to be precluded from exercising that right in the Member State of residence in elections to the European Parliament if they would have been deprived of that right under the national law of that State for the same misdemeanour and in the same manner.**

2. **For the purposes of paragraph 1 of this Article, the Member State of residence may notify the home Member State of the declaration referred to in Article 9(2). To that end, the relevant information that is normally available from the home Member State shall be provided in good time and in an appropriate manner; such information may include only details which are strictly necessary for the implementation of this Article and may only be used for that purpose.**

3. **The home Member State may, in good time and in an appropriate manner, submit to the Member State of residence any information necessary for the implementation of this Article.**

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 20

ARTICLE 1, POINT 3, POINT (-A) (new)

Article 10, paragraph 1, point (b) (Directive 93/109/EC)

(-a) point (b) of paragraph 1 shall be replaced by the following:

(b) where applicable, that he or she is standing as a candidate for election to the European Parliament in another Member State, and

Amendment 21

ARTICLE 1, POINT 3, POINT (A)

Article 10, paragraph 1, point (d) (Directive 93/109/EC)

(d) that he has not been deprived of the right to stand as a candidate in the home Member State. **deleted**

Amendment 22

ARTICLE 1, POINT 3, POINT (C)

Article 10, paragraph 3 (Directive 93/109/EC)

(c) paragraph 3 is renumbered paragraph 2.

(c) paragraph 3 is renumbered paragraph 2 **and amended as follows:**

2. The Member State of residence may also require Community nationals who are entitled to stand as candidates to produce a valid identity document. It may also require them to indicate the date from which they have been nationals of a Member State and whether they have been deprived of the right to stand as a candidate in their home Member State.

Amendment 23

ARTICLE 1, POINT 4

Article 13 paragraph 1 (Directive 93/109/EC)

1. The Member State of residence shall take the necessary measures to ensure that **such** inaccuracies in the formal declarations provided for by Articles 9(2) and 10(1) **as have the effect of a violation of the obligations imposed by this Directive** are subject to effective, proportional and dissuasive penalties.

1. The Member State of residence shall take the necessary measures to ensure that inaccuracies in the formal declarations provided for by Articles 9(2) and 10(1) are subject to effective, proportional and dissuasive penalties.