

# European elections: exercise of the right to vote and stand as a candidate in elections to the European Parliament, preventing citizens from voting or standing twice

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The European Parliament adopted a report drawn up by Andrew Nicholas **DUFF** (ALDE, UK) and made some amendments to the Commission's proposal. The amendments, for the most part, aim to serve two purposes. Firstly, Parliament proposed to abolish the current prohibition on standing for election in more than one Member State, provided that the country of residence permits multiple candidatures. Secondly, it seeks to ensure that the country of residence is not automatically obliged to prevent a citizen from voting if he or she has been deprived of his or her electoral rights in another Member State. MEPs feel that in both cases, it should be up to the Member States concerned to decide, case by case, so as to prevent discrimination. The principal amendments are as follows :

- a new operative clause states that 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. 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. Parliament wished to emphasise that any deprivation of electoral rights must be the result of an individual decision taken by the competent authorities of the Member State of residence in conformity with their national law;

- since the Act of 1976 explicitly excludes double voting, but does not exclude double candidature, a new clause was inserted stating that 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;

- Parliament further considered that the prohibition to stand as a candidate in the home Member State does not lead to a general prohibition in all Member States. Accordingly, it inserted a new clause stating that 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;

- it is left to the discretion of the Member State of residence to check whether a candidate has been deprived of his right to stand as a candidate in the home Member State. The obligation to check is deleted;

- Parliament similarly felt that it ought to be up to the discretion of the Member State of residence to inform the home Member State about a candidate's formal declaration and to decide about the

consequences of inaccuracies in that declaration. Accordingly, it deleted the obligation to prevent the person concerned from standing as a candidate;

- another amendment puts the right to vote in line with the right to stand as a candidate and is based on the same reasoning. It provides that 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. The Member State of residence may notify the home Member State of the declaration. To that end, the relevant, and normally available, information from the home Member State shall be provided in good time and in an appropriate manner; such information may only include details which are strictly necessary for the implementation of this Article and may only be used for that purpose. 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;

- lastly, 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.