

Basic information

2006/0277(CNS)

CNS - Consultation procedure
Directive

Procedure completed

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

Subject

1.20.01 Political rights, right to vote and to stand in elections
8.40.01.01 Elections, direct universal suffrage

Key players

European
Parliament

Committee responsible

AFCO Constitutional Affairs

Rapporteur

CASINI Carlo (PPE)

Appointed

09/10/2012

Shadow rapporteur

RANGEL Paulo (PPE)

HÄFNER Gerald (Verts/ALE)

FOX Ashley (ECR)

SØNDERGAARD Søren Bo
(GUE/NGL)

MESSERSCHMIDT Morten
(EFD)

Former committee responsible

AFCO Constitutional Affairs

Former rapporteur

DUFF Andrew (ALDE)

Appointed

01/03/2007

Committee for opinion

JURI Legal Affairs

Rapporteur for opinion

The committee decided not to give an opinion.

Appointed

LIBE Civil Liberties, Justice and Home Affairs

The committee decided not to give an opinion.

Former committee for opinion

Former rapporteur for opinion

Appointed

	LIBE Civil Liberties, Justice and Home Affairs	GUARDANS CAMBÓ Ignasi (ALDE)	20/03/2007
Council of the European Union	Council configuration	Meetings	Date
	Transport, Telecommunications and Energy	3213	2012-12-20
European Commission	Commission DG	Commissioner	
	Justice and Consumers	REDING Viviane	

Key events			
Date	Event	Reference	Summary
12/12/2006	Legislative proposal published	COM(2006)0791 	Summary
13/03/2007	Committee referral announced in Parliament		
26/06/2007	Vote in committee		Summary
29/06/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0267/2007	
26/09/2007	Decision by Parliament	T6-0410/2007	Summary
26/09/2007	Results of vote in Parliament		
12/09/2012	Amended legislative proposal for reconsultation published	13634/2012	Summary
13/09/2012	Formal reconsultation of Parliament		
09/10/2012	Vote in committee		
24/10/2012	Committee report tabled for plenary, reconsultation	A7-0352/2012	Summary
20/11/2012	Decision by Parliament	T7-0417/2012	Summary
20/12/2012	Act adopted by Council after consultation of Parliament		
20/12/2012	End of procedure in Parliament		
26/01/2013	Final act published in Official Journal		

Technical information	
Procedure reference	2006/0277(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the European Union TFEU 022-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed

Committee dossier	AFCO/7/10915 AFCO/6/44395
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Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	LIBE	PE388.468	04/06/2007	
Committee report tabled for plenary, 1st reading/single reading		A6-0267/2007	29/06/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0410/2007	26/09/2007	Summary
Committee final report tabled for plenary, reconsultation		A7-0352/2012	24/10/2012	Summary
Text adopted by Parliament after reconsultation		T7-0417/2012	20/11/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Amended legislative proposal for reconsultation	13634/2012	12/09/2012	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2006)0790 	12/12/2006	Summary
Legislative proposal	COM(2006)0791 	12/12/2006	Summary
Document attached to the procedure	SEC(2006)1645 	12/12/2006	
Document attached to the procedure	SEC(2006)1646 	12/12/2006	
Document attached to the procedure	SEC(2006)1647 	12/12/2006	
Commission response to text adopted in plenary	SP(2007)5401	18/10/2007	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

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

2006/0277(CNS) - 12/12/2006 - Document attached to the procedure

PURPOSE: Commission report on the participation of EU citizens in Member States elections. **CONTENT:** this report concerns the participation of EU citizens in the elections of the Member State of residence (Directive 93/109/EC) and on the electoral arrangements (Decision 76/787/EC as amended by Decision 2002/772/EC, Euratom) notably in the framework of the European elections in 2004.

To recall, the right to vote and stand as a candidate in elections to the European Parliament in the Member State of residence is enshrined in Article 19 (2) of the EC Treaty and was put into effect by

Council Directive 93/109/EC. The 2004 elections were the sixth direct elections to the European Parliament. They were held in the 25 Member States of the enlarged EU, with the number of seats increased to 735.

In order to evaluate the participation of non-national citizens of the EU in elections in the Member State of residence and to obtain a complete overview of the application of the Directive, the Commission invited Member States to provide both statistical and qualitative information on the elections, using a questionnaire. The report is based principally on information provided by Member States in response to the questionnaire. Its purpose is to assess the application of the Directive. In line with its assessment, the Commission proposes amendments to the Directive concerning the exchange of information between Member States, with a view to preventing people from voting twice or standing for election in two places and as regards the administrative formalities for standing as a candidate.

Several problems have come to light as a result of this evaluation:

1) The problem of double voting or double candidature: Directive 93/109/EC prohibits EU citizens from voting or standing as a candidate in more than one Member State in the same election. To that end, Member States are obliged under Article 13 to exchange information on EU citizens who have

been entered on the electoral roll or have stood as a candidate in the Member State of residence. An information exchange system was set up in order to apply Article 13: on the basis of information sent by the Member State of residence to the home Member State, the latter deletes from its own electoral roll any persons who have been added to the electoral roll in the Member State of residence.

As from the 1994 elections, the Commission found that the information exchange system was not functioning as it should. Consequently, efforts were made with Member States to implement a series of practical measures to increase the operability and effectiveness of the system: a standard form and format of personal data to be sent to the Member State of origin was adopted, practical arrangements for information exchange were laid down and a list of the national authorities responsible for receiving data was circulated among the Member States.

Despite all efforts almost all Member States concluded that there were shortcomings in the operability of the information exchange system and its effectiveness was hampered by a number of difficulties: serious problems with data being exchanged (such as maiden name, or place and date of birth that were necessary to allow such persons to be identified in the home electoral roll); or data arriving too late to be processed without additional emergency measures or in many cases even to be taken into account.

In short, all the previous efforts made by the Commission with the Member States to improve the operability and effectiveness of the system had only limited impact and failed to meet expectations. Overall, only five Member States considered the present system adequate to prevent double voting without the introduction of further changes. On the other hand, in several cases implementation of the current system led to EU citizens being deprived of the right to vote in the elections in their home Member State as a consequence of the exchange of information on non-national EU citizens, because they were incorrectly considered as still wishing to vote in their previous Member State of residence when they had in fact returned to their home Member State and exercised political rights such as voting in local elections

While the aim of the system is solely to prevent people from voting or standing twice and it does not allow detection of attempts to do so, information provided by the Member States seems to indicate that the number of cases of double registration or double voting by non-national EU citizens is low. These cases tended to be linked not to deliberate abuse but to mistakes and misunderstandings.

2) Participation of non-national EU citizens in the Member States of residence as candidates: statistics on non-national EU citizens standing as candidates in the elections reflect weak participation in the political life of the Member States of residence. Several factors can be assumed to lie behind this downward trend. In some Member States, there was criticism of the heavy administrative burden that candidates have to face when submitting an application to stand. This applies to the requirement that a

Community national must also produce an attestation from the competent administrative authorities of the home Member State certifying that he/she has not been deprived of the right to stand as a candidate in that Member State. Cases were reported where non national EU citizens wishing to stand as a candidate had difficulty identifying the authorities in their Member State of origin designated to issue such attestations.

Non-national voters may therefore be deprived of the opportunity to exercise their right to stand as a candidate, as in practice candidates are in the majority of cases put forward by political parties. The Commission encourages Member States to offer to non-national resident EU-citizens the possibility to become members of national political parties under the same conditions which are open to their nationals. This would considerably facilitate the citizens' participation in the political life of the Member States where they live as well as their integration and it would enrich the political life and enhance democracy.

3) Problems detected in the implementation of the 1976 Act concerning the election of representatives of the European Parliament: the Commission detected that the interpretation by certain Member States of Article 9(2) concerning the timing of publication of the electoral results in 2004 elections had led to early publication of the results in these Member States. Another problem related to the participation in European elections of citizens holding the nationality of more than one Member State which could be a source for double voting.

Proposed amendments: in view of the problems identified and of voter apathy during European elections (in 2004, EU-15 voter turnout was 49.1%, thus below the 49.8% turnout in 1999, and EU-10 voter turnout was 26.9%) the Commission proposes amendments to the Directive in order to:

- strengthen the information exchange system and prevent double voting and double candidature and
- take steps to reverse citizens' weak participation in the elections, as voters and candidates.

These amendments are the subject of a Commission proposal (please see the summary dated 12/12/2006.)

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

2006/0277(CNS) - 26/09/2007 - Text adopted by Parliament, 1st reading/single reading

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.

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

2006/0277(CNS) - 12/12/2006 - Legislative proposal

PURPOSE : to amend Directive 93/109/EC as regards the rules on double voting and double candidature for EU citizens standing in elections to the European Parliament and residing in a Member State of which they are not nationals.

PROPOSED ACT : Council Directive.

CONTENT : according to EU citizenship rights enshrined in the EC Treaty, every citizen of the Union residing in a Member State of which he is not a national has the right to vote and to stand as a candidate to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State. The principles for voting and standing as a candidate in a Member State of which an EU citizen is not a national are set out in Directive 93/109/EC. No one may vote more than once in an EP election or stand as a candidate in two countries in the same election (Article 4).

Directive 93/109/EC establishes two means to prevent people from voting or standing as a candidate in more than one Member State in the same elections:

- EU non-nationals must provide a formal declaration that he/she will exercise the right to vote or to stand as a candidate in their Member State of residence only (Articles 9 and 10);

- Member States are obliged to exchange information on nationals of other Member States who have been entered on electoral rolls or have stood as a candidate. On the basis of the information sent by the Member State of residence to the home Member State, the latter must take appropriate action to ensure that their nationals do not vote or stand as a candidate in more than one Member State (Article 13). To this end, an information exchange system between the Member States was set up. The Commission and the Member States have informally agreed on practical details for the exchange of information within the system. However, there is no legal obligation for the Member States to follow them. The system is too administratively burdensome for Member States and lacks operability and effectiveness, mainly because of the non-harmonised national legislations in electoral matters. The proposal discusses in detail the problems that have been identified with the system.

The Directive also stipulates that citizens of the EU who have been deprived of the right to stand as a candidate under either the law of the Member States of residence or the law of their home Member state, shall be precluded from exercising that right in the Member State of residence in elections to the EP (Article 6.1). EU citizens who wish to stand as a candidate in EP elections in their country of residence instead of in their country of origin are obliged, under the Directive, to certify with an attestation delivered by the competent authorities in the Member State of origin, that they are not deprived of the right to stand as a candidate in that Member State (Article 10.2). An application form is declared inadmissible where that citizen is unable to provide this attestation (Article 6.2). This obligation results in a heavy administrative burden on EU non-nationals wishing to stand as a candidate in the Member State of residence and might be one reason for the low participation rate of these citizens.

Proposed amendments to the Directive : in order to remedy the deficiencies of the current mechanism on how to prevent double vote and double candidature, the objectives of this proposal are:

- to **replace the obligation of the exchange of information** by less burdensome measures, whilst introducing the necessary guaranties and deterrents;
- to abolish the obligation for EU citizens who wish to stand as a candidate in the Member State of residence to provide the attestation that they are not deprived of the right to stand as a candidate, and to replace it with a reference to that effect to be introduced in the **formal declaration** that candidates must submit under current Article 10.1.

Information exchange system: the Commission proposes to abolish this while maintaining the formal declaration of EU non-nationals that they will exercise the right to vote or stand as a candidate in one Member State only. The obligation of such a declaration is, in itself, a deterrent to voting or standing twice as a candidate. Article 2.9 defines the 'formal declaration' as 'a declaration by the person concerned, inaccuracy in which makes that person liable to penalties, in accordance with the national law applicable'. However, the dissuasive effect is limited because this provision refers back to national law on penalties. Therefore, in order to reinforce the deterrent to voting or standing twice, the Commission proposes to introduce a new provision laying down explicitly the obligation for the Member States to apply effective, proportionate and dissuasive penalties for inaccuracy in declarations produced under the Directive resulting in a violation of obligations posed therein. Furthermore, these penalties which should be at least equivalent to those applicable under relevant national measures, will be the subject of information measures by Member States, which they are currently obliged to undertake under Article 12. The Commission also proposes to present a report, based on information received from the Member

States, on the occurrence of double vote and double candidature after the first application of the amended Directive which would be a necessary and useful means to identify possible cases of double vote and double candidature in order to assess the extent of instances of such attempts. The Commission suggests that Member States undertake ex post checks in situations where there is a likelihood of double vote.

Attestation to stand as candidate: the Commission proposes the abolition of the obligation for candidates to present the attestation that they have not been deprived of the right to stand as a candidate, and to replace it with the inclusion of a mention to that effect into the formal declaration that candidates must submit. It also proposes to introduce the obligation for the Member State of residence to check with the Member States of origin that the citizen concerned has not been deprived of his/her right to stand as a candidate by the notification of his/her declaration to the Member State of origin.

The new provision laying down the obligation for the Member States to apply penalties for inaccuracy in formal declarations will apply also to the declaration by candidates that they are not deprived of the right to stand as a candidate.

In order to guarantee to EU-non nationals the exercise of their electoral rights in accordance with the amended Directive in the next elections of June 2009, the Commission proposes that Member States transpose the provisions necessary to comply with the amended Directive by 30 June 2008 at the latest.

Simplification:

- no more meetings with the Commission and Member States on the implementation of the information exchange system will be needed;
- abolishing the obligation of the Member States to exchange information would simplify administrative procedures and save the national administrations the costs related to this work;
- the introduction of a mention of not being deprived of the right to stand as a candidate in the formal declaration that potential candidates must already provide would be much less burdensome than the current obligation to provide a separate attestation to that effect.

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

2006/0277(CNS) - 12/09/2012 - Amended legislative proposal for reconsideration

On 12 September 2012, COREPER examined the draft text of the Directive on the right to 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. At that meeting, delegations agreed on the draft text of the Directive as set out in the Annex and decided to proceed to a **new consultation of the European Parliament**.

The proposed amendments follow on from [Commission reports on the application to the European elections 2004](#) and those of 2009 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.

It is proposed to amend certain provisions of the Directive as follows:

- **any citizen of the Union who has been deprived of his right to stand as a candidate** under either the law of the Member State of residence or the law of his home Member State, shall be precluded from exercising that right in the Member State of residence in the case of elections to the European Parliament;
- 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. The amended Directive provides for the **obligation for the Member State of residence to notify the formal declaration** that the candidates must produce in order to ensure that the Union candidate was not actually deprived of this right in the home Member State;
- upon receipt of such a notification, the home Member State should provide the Member State of residence with relevant information **within a time-limit of five working days from the reception of the notification** or, where possible, within a shorter time limit, if so requested by the Member State of residence. If the information is not received by the Member State of residence, the candidate shall nonetheless be admitted;
- if the information provided **invalidates the content of the declaration**, the Member State of residence shall take the appropriate steps in accordance with its national law to prevent the person concerned from standing as a candidate;
- to facilitate communication between the national authorities, the Member States shall designate **one contact point** to receive and transmit the information regarding candidates;
- to ensure a **more efficient identification of candidates** registered both on the lists of their home Member State and of the Member State of residence, the list of the data to be required from Union nationals when submitting an application for standing as a candidate in the Member State of residence shall be complemented with the date and place of birth of such citizens and the last address of residence in their home Member State.

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

2006/0277(CNS) - 24/10/2012 - Committee final report tabled for plenary, reconsideration

The Committee on Constitutional Affairs, in the context of a special legislative procedure (renewed consultation of the Parliament) the report by Carlo CASINI (EPP, IT) on the draft Council directive amending Directive 93/109/EC of 6 December 1993 as regards certain detailed arrangements for the exercise of the right to 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.

The Committee on Constitutional Affairs recommends that the Parliament approves the Council draft. It has decided to use the simplified procedure to issue a swift positive opinion on the Council's draft without amendment in the expectation that the modest but sensible reforms will be in place in time for 2014.

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

2006/0277(CNS) - 20/11/2012 - Text adopted by Parliament after reconsideration

The European Parliament adopted by 618 votes to 23, with 14 abstentions, a legislative resolution on the draft Council directive amending Directive 93/109/EC of 6 December 1993 as regards certain detailed arrangements for the exercise of the right to 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.

Parliament approved the Council's draft in accordance with the special legislative procedure (renewed consultation of Parliament).

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

2006/0277(CNS) - 20/12/2012 - Final act

PURPOSE: to amend Directive 93/109/EC on the right to vote and eligibility to stand for European elections, so as to prevent people from voting or standing as a candidate in more than one Member State in the same elections.

LEGISLATIVE ACT: Council Directive 2013/1/EU amending Directive 93/109/EC as regards certain detailed arrangements for the exercise of the right to 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.

CONTENT: this Directive amends Directive 93/109/EC as regards certain conditions for the exercise of the right to stand as a candidate for election to the European Parliament for EU citizens residing in a Member State of which they are not nationals.

The amended Directive will **facilitate the submission of candidates' applications** by means of the following provisions:

- the abolition of the requirement in Directive 93/109/EC on a Union citizen when submitting his application to stand as a candidate in a Member State other than the home Member State, to produce a **declaration** from the competent administrative authorities of the home Member State certifying that the person concerned has not been deprived of the right to stand as a candidate in the home Member State or that no such disqualification is known to them;
- the Member State of residence shall **notify the home Member State of such declarations**, in order to verify whether the citizen of the Union has in fact been deprived of the right to stand in elections to the European Parliament in the home Member State. Upon receipt of that notification, **the home Member State should provide the Member State of residence** with relevant information within a time-limit (5 working days) allowing for the admissibility of the candidacy to be effectively assessed. Failure by the home Member State to provide that information on time should not result in the deprivation of the right to stand as a candidate in the Member State of residence;
- it shall be possible for Member States to **set a different deadline for the submission of applications** to stand as a candidate by citizens of the Union who are not nationals than that set for national citizens;
- to facilitate communication between national authorities, Member States should **designate one contact point** to be responsible for the notification of information concerning such candidates.

To ensure a more efficient identification of candidates registered both on the list of their home Member State and that of the Member State of residence, the **list of data** to be required from citizens of the Union when submitting an application to stand as candidates in the Member State of residence should include their date and place of birth and the last address of residence in their home Member State.

ENTRY INTO FORCE: 27/10/2013.

TRANSPOSITION: 28/01/2014.