

Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals

## CHAPTER I

### General provisions

#### *Article 1*

1 This Directive lays down the detailed arrangements whereby citizens of the Union residing in a Member State of which they are not nationals may exercise the right to vote and to stand as a candidate there in municipal elections.

2 Nothing in this Directive shall affect each Member State's provisions concerning the right to vote or to stand as a candidate either of its nationals who reside outside its territory or of third country nationals who reside in that State.

#### *Article 2*

1 For the purposes of this Directive:

- a 'basic local government unit' means the administrative entities listed in the Annex which, in accordance with the laws of each Member State, contain bodies elected by direct universal suffrage and are empowered to administer, at the basic level of political and administrative organization, certain local affairs on their own responsibility;
- b 'municipal elections' means elections by direct universal suffrage to appoint the members of the representative council and, where appropriate, under the laws of each Member State, the head and members of the executive of a basic local government unit;
- c 'Member State of residence' means the Member State in which a citizen of the Union resides but of which he is not a national;
- d 'home Member State' means the Member State of which a citizen of the Union is a national;
- e 'electoral roll' means the official register of all voters entitled to vote in a given basic local government unit or in one of its subdivisions, drawn up and kept up-to-date by the competent authority under the electoral law of the Member State of residence, or the population register if it indicates eligibility to vote;
- f 'reference date' means the day or days on which citizens of the Union must satisfy, under the law of the Member State of residence, the requirements for voting or for standing as a candidate in that State;
- g 'formal declaration' means a declaration by the person concerned, inaccuracy in which makes that person liable to penalties, in accordance with the national law applicable.

2 A Member State shall notify the Commission if any local government unit referred to in the Annex is, by virtue of a change in its domestic law, replaced by another unit having the functions referred to in paragraph 1 (a) of this Article or if, by virtue of such a change, any such unit is abolished or further such units are created.

Within three months of receipt of such a notification, together with a Member State's assurance that no person's rights under this Directive will be prejudiced, the Commission shall adapt the Annex by making appropriate substitutions, deletions or additions. The Annex so revised shall be published in the Official Journal.

### Article 3

Any person who, on the reference date:

- (a) is a citizen of the Union within the meaning of the second subparagraph of Article 8 (1) of the Treaty; and
- (b) is not a national of the Member State of residence, but in any event 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 municipal elections in the Member State of residence in accordance with this Directive.

### Article 4

1 If, in order to vote or to stand as candidates, nationals of the Member State of residence must have spent a certain minimum period as a resident in the territory of that State, voters and persons entitled to stand as candidates within the scope of Article 3 shall be deemed to have fulfilled that condition where they have resided for an equivalent period in other Member States.

2 If, under the laws of the Member State of residence, its own nationals may vote or stand as candidates only in the basic local government unit in which they have their principal residence, voters and persons entitled to stand as candidates within the scope of Article 3 shall also be subject to this condition.

3 Paragraph 1 shall not affect the provisions of each Member State under which the exercise by any person of the right to vote and to stand as a candidate in a given basic local government unit is subject to his having spent a minimum period as a resident in that unit.

Nor shall paragraph 1 affect any national provision already in force on the date of adoption of this Directive, whereby the exercise by any person of such right to vote and to stand as a candidate is subject to his having spent a minimum period in the constituent part of the Member State of which the basic local government unit forms a part.

### Article 5

1 Member States of residence may provide that any citizen of the Union who, through an individual decision under civil law or a criminal law decision, has been deprived of his right to stand as a candidate under the law of his home Member State, shall be precluded from exercising that right in municipal elections.

2 An application from any citizen of the Union to stand as a candidate in municipal elections in the Member State of residence may be declared inadmissible where that citizen is unable to produce the declaration referred to in Article 9 (2) (a) or the attestation referred to in Article 9 (2) (b).

3 Member States may provide that only their own nationals may hold the office of elected head, deputy or member of the governing college of the executive of a basic local government unit if elected to hold office for the duration of his mandate.

The Member States may also lay down that the temporary or interim performance of the functions of a head, deputy or member of the governing college of the executive of a basic local government unit may be restricted to own nationals.

Having regard to the Treaty and to general legal principles, Member States may take appropriate, necessary and proportional measures to ensure that the offices referred to

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in the first subparagraph can only be held and the interim functions referred to in the second subparagraph can be performed only by their own nationals.

4 Member States may also stipulate that citizens of the Union elected as members of a representative council shall take part in neither the designation of delegates who can vote in a parliamentary assembly nor the election of the members of that assembly.

#### *Article 6*

1 Persons entitled to stand as candidates within the scope of Article 3 shall be subject to the same conditions concerning incompatibility as apply, under the laws of the Member State of residence, to nationals of that State.

2 Member States may provide that the holding of elected municipal office in the Member State of residence is also incompatible with the holding of offices in other Member States which are equivalent to those which give rise to incompatibility in the Member State of residence.