

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM (89) 524 final

Brussels, 17 October 1989

AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE  
ON VOTING RIGHTS FOR COMMUNITY NATIONALS IN  
LOCAL ELECTIONS IN THEIR MEMBER STATE OF RESIDENCE  
=====

(presented by the Commission pursuant to Article 149.2 (d)  
of the EEC Treaty)

AMENDED PROPOSAL FOR A COUNCIL DIRECTIVE  
ON VOTING RIGHTS FOR COMMUNITY NATIONALS IN  
LOCAL ELECTIONS IN THEIR MEMBER STATE OF RESIDENCE  
=====

Original proposal  
COM(88)371 final

Amended proposal

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 3(c) of the EEC Treaty stipulates that the activities of the Community include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8(a) of the EEC Treaty requires the Community to adopt measures with the aim of progressively establishing an area without internal frontiers in which the free movement of persons is ensured in accordance with the provisions of the Treaty;

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the right to vote in local elections has been repeatedly claimed by Community citizens residing in Community countries which are not their countries of origin, and whereas the European Parliament has dealt with this question and expressed its views on it on several occasions;

Whereas Article 3(c) of the EEC Treaty stipulates that the activities of the Community include the abolition, as between Member States, of obstacles to freedom of movement for persons;

Whereas Article 8(a) of the EEC Treaty requires the Community to adopt measures with the aim of progressively establishing an area without internal frontiers in which the free movement of persons is ensured in accordance with the provisions of the Treaty;

Whereas if the right to move freely is to be exercised, by objective standards, in freedom and dignity, Community nationals must be integrated into the life of the host country;

Whereas the right to vote and stand for election in local elections in the Member State of residence is a necessary step towards achieving such integration, contributing to respect for democratic rights which Member States pledged themselves to promote in the Single European Act;

Whereas the need for action on recognition of the right to vote in local elections in the Member State of residence has been reaffirmed on many occasions by the highest Community bodies from the Paris Summit in 1974 to the report of the *ad hoc* Committee on a People's Europe approved by the Milan European Council in June 1985;

Whereas the right to vote in local elections is withdrawn from citizens of certain Member States residing in another Member State; whereas exercise of the right to vote in the municipality of residence should therefore be one of the objectives of Community action; whereas, to this end, steps must be taken to ensure that free movement of persons is not achieved at the expense of a loss of political rights at local level;

Whereas if the right to move freely is to be exercised, by objective standards, in freedom and dignity, Community nationals must be integrated into the life of the host country;

Whereas the right to vote and stand for election in local elections in the Member State of residence is a necessary step towards achieving such integration, contributing to respect for democratic rights which Member States pledged themselves to promote in the Single European Act;

Whereas the need for action on recognition of the right to vote in local elections in the Member State of residence has been reaffirmed on many occasions by the highest Community bodies from the Paris Summit in 1974 to the report of the *ad hoc* Committee on a People's Europe approved by the Milan European Council in June 1985;

Whereas the right to vote in local elections is withdrawn from citizens of certain Member States residing in another Member State; whereas exercise of the right to vote in the municipality of residence should therefore be one of the objectives of Community action; whereas, to this end, steps must be taken to ensure that free movement of persons is not achieved at the expense of a loss of political rights at local level;

Whereas the right to vote in local elections should be granted in the country of residence to nationals of the other Member States on request, provided that they can demonstrate that they have been continuously resident in that Member State for at least the term of office of one municipal council; whereas other requirements applicable to nationals should apply equally to nationals of the other Member States;

Whereas the right to vote and stand for election in local elections should be granted in the country of residence to nationals of the other Member States on request, provided that they can demonstrate that they have been continuously resident in that Member State for at least the term of office of one municipal council in the case of the right to vote and two terms if they wish to stand for election; whereas other requirements applicable to nationals should apply equally to nationals of the other Member States;

Whereas the right to stand for election should be granted to nationals of the other Member States in the municipality where they are voters provided that they have been resident for at least the term of office of two municipal councils; whereas other requirements applicable to nationals should apply equally to nationals of the other Member States;

Whereas, however, provision should be made for the exclusion of non-nationals from the exercise of functions such as Mayor or Deputy Mayor which involve duties extending beyond the municipality, and from involvement in the election of a parliamentary assembly;

Whereas, however, provision should be made for the exclusion of non-nationals from the exercise of functions such as Mayor or Deputy Mayor which involve duties extending beyond the municipality, and from involvement in the election of a parliamentary assembly;

Whereas account should be taken of the situation in Member States in which nationals of the other Member States account for more than 20% of the population;

Whereas account should be taken of the situation in Member States in which nationals of the other Member States account for more than 20% of the population; whereas, in such cases, Member States should be entitled to waive application of the directive to the first local elections to which it would otherwise apply; whereas the Commission should draw up a report on this problem and, where appropriate, propose further transitional measures for subsequent elections;

Whereas, in such cases, Member States should be entitled to waive application of the directive to the first local elections to which it would otherwise apply; whereas the Commission should draw up a report on this problem and, where appropriate, propose further transitional measures for subsequent elections;

Whereas Member States should be free, for the first two elections governed by the directive, to limit the number of seats held by non-nationals on a local council to 25%;

Whereas the Commission should report to the Council on implementation of this directive three years after the end of the transitional period;

Whereas the Treaty has not provided specific powers for this purpose,

**Has adopted this directive:**

Whereas Member States should be free, for the first two elections governed by the directive, to limit the number of seats held by non-nationals on a local council to 25%;

Whereas the Commission *must* report to the Council on implementation of this directive three years after the end of the transitional period;

Whereas the Treaty has not provided specific powers for this purpose,

**Has adopted this directive:**

*Title I: General provisions*

*Article 1*

For the purposes of this directive the term:

1. 'Nationals of the Member States' shall mean persons who have the nationality of one of the Member States of the European Community who enjoy the civic rights stemming from that nationality;

2. 'Local elections' shall mean elections of bodies (municipal councils or Mayors) elected by direct universal suffrage and having, under national legislation, powers to manage and administer the first tier of political and administrative organization;

3. 'The right to vote' shall mean the right exercised by voters when they participate in elections held by direct universal suffrage;

4. 'The right to stand for election' shall mean the right of an individual to stand as a candidate and be elected by direct universal suffrage.

*Title I: General provisions*

*Article 1*

For the purposes of this directive the term:

1. 'Nationals of the Member States' shall mean persons who have the nationality of one of the Member States of the European Community who enjoy the civic rights stemming from that nationality;

2. "Local elections" shall mean elections which are defined as such by the Member States;

3. "The right to vote" shall mean the right to participate in an election within the meaning of paragraph 2;

4. "The right to stand for election" shall mean the right to stand as a candidate and be elected in an election within the meaning of paragraph 2.

*Title II: The right to vote*

*Article 2*

The Member States shall grant nationals of other Member States, recognized as residing on their territory, the right to vote in local elections in the municipality in which they are resident subject to the conditions set out in Articles 3 to 6 below.

*Article 3*

1. Nationals of other Member States who intend to exercise the right to vote referred to in Article 2 above shall make application to the authorities responsible for elections in the municipality of residence for entry on the municipal electoral register.

The authorities concerned shall inform nationals of other Member States of this right in the same way as nationals are informed of their right to vote.

*Title II: The right to vote and stand for election*

*Article 2*

The Member States shall grant nationals of other Member States, recognized as residing on their territory, the right to vote and stand for election in local elections in the municipality in which they are resident subject to the conditions set out in Articles 3 to 6 below.

*Article 3*

1. Nationals of other Member States who intend to exercise the right to vote referred to in Article 2 above shall make application to the authorities responsible for elections in the municipality of residence for entry on the municipal electoral register.

The authorities concerned shall inform nationals of other Member States of this right in the same way as nationals are informed of their right to vote.

2. For this purpose, such nationals shall produce a document issued by a consulate of their Member State of origin certifying that:

(i) they have not been deprived of their civic rights in their Member State of origin;

(ii) they can no longer exercise the right to vote in local elections in their Member State of nationality, either by virtue of residence in another Member State or because they have asked to be transferred from the electoral register of the municipality in which they were previously registered, with a view to exercising the right to vote in their municipality of residence.

#### *Article 4*

1. Any national of another Member State may apply for entry on the electoral register of his municipality of residence following a period of continuous residence in the host Member State of not less than the term of office of a municipal council.

Proof of residence shall be provided by a document certifying residence issued by the authorities of the host Member State. The period of residence shall run from the date of application for this document.

2. For this purpose, such nationals shall produce a document issued by a consulate of their Member State of origin certifying that:

(i) they have not been deprived of their civic rights in their Member State of origin;

(ii) they can no longer exercise the right to vote in local elections in their Member State of nationality, either by virtue of residence in another Member State or because they have asked to be transferred from the electoral register of the municipality in which they were previously registered, with a view to exercising the right to vote in their municipality of residence.

#### *Article 4*

1. Any national of another Member State may apply for entry on the electoral register of his municipality of residence following a period of continuous residence in the host Member State of not less than the term of office of a municipal council in the case of the right to vote and two terms if he wishes to stand for election.

Proof of residence shall be provided by a document certifying residence issued by the authorities of the host Member State. The period of residence shall run from the date of application for this document.

The duration of residence prior to entry into force of this Directive shall be taken into account when determining that period.

Absence on holiday or for reasons of 'force majeure' (sickness, maternity, study, military service, etc.) shall not be considered a break in residence.



2. Application for entry on the electoral register can be made only in the municipality in which the applicant is actually resident and shall be subject to the rules laid down by national legislation, in particular as regards the minimum period of residence in the municipality and the deadlines for applying for entry on the electoral register.

*Article 5*

The provisions laid down by national legislation in the Member State of residence as regards the minimum voting age and disqualification shall apply equally to nationals of the other Member States.

*Article 6*

A national of another Member State entered on a municipal electoral register in his Member State of residence shall be subject to the electoral requirements applicable to nationals of that Member State, in particular as regards provisions which make voting compulsory.

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*Article 5*

The provisions laid down by national legislation in the Member State of residence as regards the minimum voting age, incapacity, ineligibility, incompatibility and disqualification shall apply equally to nationals of the other Member States.

*Article 6*

A national of another Member State entered on a municipal electoral register in his Member State of residence shall be subject to the electoral requirements applicable to nationals of that Member State, in particular as regards provisions which make voting compulsory.

*Title III: The right to stand for election*

*Article 7*

The Member States shall grant nationals of other Member States the right to stand and be elected in local elections in the municipality on whose electoral register they appear, subject to the conditions set out in Articles 8 to 10 below.

*Article 8*

1. A national of one Member State may stand as a candidate in local elections in the municipality of residence in another Member State following a period of continuous residence in that Member State of not less than two terms of office of a municipal council.

2. The provisions of the second paragraph of Article 4(1) shall also apply.

*Article 9*

The provisions laid down by national legislation in the Member State of residence as regards

- (i) minimum age,
- (ii) incompatibility, and
- (iii) disqualification

for the purposes of local elections shall apply equally to nationals of other Member States.

*Article 10*

1. The Member States may exclude nationals of other Member States from holding an office such as Mayor, Deputy Mayor or any equivalent position.

2. If members of a municipal council are by virtue of such membership electors of a parliamentary assembly, the Member States may provide that nationals of other Member States who are members of the municipal council may not take part in the election. They shall be replaced in accordance with national rules governing the appointment of additional electors.

If the members of a municipal council appoint the electors of a parliamentary assembly from among their number, the Member States may provide that nationals of other Member States who are members of the municipal council may not take part in the election.

*Article 7*

1. The Member States may restrict to their own nationals the offices of Mayor, Deputy Mayor or any equivalent position.

2. If members of a municipal council are by virtue of such membership electors of a parliamentary assembly, the Member States may provide that nationals of other Member States who are members of the municipal council may not take part in the election. They shall be replaced in accordance with national rules governing the appointment of additional electors.

If the members of a municipal council appoint the electors of a parliamentary assembly from among their number, the Member States may provide that nationals of other Member States who are members of the municipal council may not take part in the election.

*Title IV: Transitional provisions*

*Article 11*

1. If the proportion of nationals of the other Member States resident in a Member

State exceeds 20% of the total population, that Member State shall be entitled to waive application of the directive to the first general local elections to which it would otherwise apply under Article 14.

2. After these elections, the Commission shall report to the Council and, where appropriate, propose whatever measures might be needed for gradual application of the directive.

*Article 12*

Member States may stipulate that, in the first two general local elections to which the provisions of this directive apply, nationals of other Member States elected as municipal councillors may not occupy more than one quarter of the seats on a municipal council.

*Title III: Transitional provisions*

*Article 8*

1. If the proportion of nationals of the other Member States resident in a Member

State exceeds 20% of the total population, that Member State shall be entitled to waive application of the directive to the first general local elections to which it would otherwise apply under Article 11.

2. After these elections, the Commission shall report to the Council and, where appropriate, propose whatever measures might be needed for gradual application of the directive.

*Article 9*

Member States may stipulate that, in the first two general local elections to which the provisions of this directive apply, nationals of other Member States elected as municipal councillors may not occupy more than one quarter of the seats on a municipal council.

*Title V: Final provisions*

*Article 13*

Three years after the end of the transitional period referred to in Articles 11 and 12, the Commission shall report to Parliament and the Council on implementation of this directive.

*Article 14*

The Member States shall adopt the measures required to transpose this directive into national law within three years of notification.

They shall notify the Commission of these provisions.

*Article 15*

This directive is addressed to the Member States.

Done at

For the Council

*Title IV: Final provisions*

*Article 10*

Three years after the end of the transitional period referred to in Articles 8 and 9, the Commission shall report to Parliament and the Council on implementation of this directive.

*Article 11*

The Member States shall adopt the measures required to transpose this directive into national law within three years of notification.

They shall notify the Commission of these provisions.

*Article 12*

This directive is addressed to the Member States.

Done at

For the Council