



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.01.1996

COM(95) 499 final

96/0016 (CNS)

Proposal for a

COUNCIL DIRECTIVE

amending Council Directive 94/80/EC¹ 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.

(presented by the Commission)

EXPLANATORY MEMORANDUM

I: Background

Directive 94/80/EC 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, introduces local voting rights for non-national Union residents as from 1st January 1996.

II: Enlargement of the Community

1. General

The Directive was adopted on 19 December 1994 and therefore the annex does not refer to the new Member States. An adaptation to include references to the municipalities in the three new Member States is therefore necessary, in particular as Finland and Austria will hold local elections in the autumn of 1996.

2. The specific situation of the Aland Islands

Following Article 28 of the Act of Accession, the Finnish Government deposited, together with the instrument of ratification, a declaration that the EC Treaty will apply to the Aland islands under the conditions established in Protocol 2 and in line with the corresponding declaration n°32 made by the Member States and annexed to the Act of Accession of Austria, Finland and Sweden¹.

The autonomous region of the Aland Islands is currently governed by the 1991 Act on the Autonomy of Aland. The right to vote and to stand in municipal elections is automatically bestowed only on Finnish citizens that have right of domicile either by birthright or after five years of residence in the islands (section 9). However, Finnish nationals that do not have the right of domicile as well as Danish, Icelandic, Norwegian and Swedish nationals, have the right to vote and to stand in municipal elections after three years of residence. The same rights may be given to citizens of other countries (section 67).

Since a period of residence, irrespective of nationality, is required of all those that do not have the right of domicile it can be concluded that there is no discriminatory treatment incompatible with article 8B (1) of the EC Treaty, between Finnish citizens and other EU nationals as regards to the right to vote and to stand in municipal elections. No specific conditions are therefore necessary to apply article 8B (1) to the Aland islands.

III: Legal Basis

Article 8b of the Treaty establishing the European Community gives, every citizen of the Union residing in a Member State of which he is not a national, the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State.

Article 8b (1) is the legal basis of Directive 94/80/EC. Since the present draft proposal is an amendment to that Directive it is appropriate that it should have the same legal basis.

¹ OJ C 241 of 29.8.1994

IV: Comments on individual articles

I. Article 1

The level of local government concerned is defined in article 2(1) (a) of the Directive as "the administrative entities 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 organisation, certain local affairs on their own responsibility". In order to enhance transparency for the citizen, the Directive contains an annex which lists, for every Member State and in the appropriate language versions, the local government units in which non-national Union citizens are entitled to participate in the elections on the same conditions as national citizens.

2. Article 2

Following the accession of Austria, Finland and Sweden to the European Community and pursuant to the provisions of Article 168 of the Treaty of Accession, the new Member States have the obligation to put into effect the measures necessary for them to comply, from the date of accession, with the provisions of Directive 94/80/EC of 19 December 1994.

In order to allow the new Member States to bring into force the laws, regulations and administrative provisions necessary to comply with Directive 94/80/EC within its prescribed date of 1st January 1996, it is necessary that the present amendment, which merely lists, in the various language versions, the "basic local government unit" as defined in article 2 (1) (a) of the said Directive, came into force as soon as possible.

Council Directive

amending Council Directive 94/80/EC² 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.

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community and in particular Article 8b (1) thereof,

Having regard to the proposal from the Commission,³

Having regard to the opinion of the European Parliament,⁴

Having regard to the opinion of the Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Whereas the annex to Directive 94/80/EC, 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, lists the basic local government units in each Member State;

Whereas, pursuant to the accession of Austria, Sweden and Finland, the annex of Directive 94/80/EC should be so amended as to provide a reference to the basic local government units in these three countries,

Whereas, pursuant to the Act of Accession of Austria, Sweden and Finland, Directive 94/80/EC is applicable to the Aland islands, where Finnish citizens who do not have the right of domicile and other Union nationals are subject to the same condition relating to the period of residence for the exercise of the right to vote and to stand as candidates in municipal elections,

² OJ L N°368 of 30.12.1994

³ COM (95) ...

⁴ OJ C N°...

⁵ OJ C N° ...

⁶ OJ C N° ...

HAS ADOPTED THIS DIRECTIVE

Article 1

In the annex to Directive 94/80/EC the following paragraphs shall be added:

In Austria:

Gemeinden, Bezirke in der Stadt Wien

In Finland:

kunta, kommun, kommun pa Åland

In Sweden:

Kommuner, Landsting

Article 2

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

This directive is addressed to the Member States.

Done in Brussels ,

For the Council

ISSN 0254-1475

COM(95) 499 final

DOCUMENTS

EN

06 14

Catalogue number : CB-CO-95-541-EN-C

ISBN 92-77-94671-7

Office for Official Publications of the European Communities

L-2985 Luxembourg

5