



13.1.2011

NOTICE TO MEMBERS

Subject: Petition 0613/2007 by Robert Houlston (British), bearing 5 signatures, on obstacles to the right of EU citizens to vote and stand as candidates at municipal and European elections in Spain

1. Summary of petition

The petitioner, a member of a political party representing European citizens from other Member States resident in Spain, alleges that the electoral rights of thousands of EU citizens were seriously infringed at the most recent local elections in Spain. In particular, he criticises the omissions and shortcomings of the Orihuela municipal authorities in the province of Alicante regarding the preliminary formalities necessary to enable non-Spanish residents to exercise their right to vote (the Orihuela coastline has a population of 20 000 of whom 60% are British). Pointing out that those entitled to vote are mainly pensioners some of whom have health problems and, in addition, cannot speak Spanish, he is critical of the irregularities committed by the municipal and postal authorities in distributing to households notifications of intent to vote. 75% of the notification forms never reach those concerned, having either gone astray or been wrongly addressed. This chaotic state of affairs, as well as being symptomatic of overbuilding in the area concerned, is caused by a lack of adequate monitoring by the local electoral office which, according to the signatories, failed to provide the necessary assistance to those entitled to vote who came in person to register on the electoral roll. It appears that voters also faced linguistic and logistic problems unjustifiably preventing them from lodging an appeal. As a result, less than 10% of those entitled to vote as resident EU citizens were registered on the municipal roll which meant that one-third of the local population was not suitably represented in the newly-elected municipal council. The petitioners are seeking action by the European Union to eliminate bureaucratic obstacles which discriminate against citizens of other Member States seeking to exercise their electoral rights under Community law.

2. Admissibility

Declared admissible on 5 November 2007. Information requested from Commission under Rule 192(4).

3. Commission reply, received on 10 June 2008.

The petitioners complain that the electoral authorities of the Municipality of Orihuela (Spain) violated the electoral rights granted in Article 19.(1) of the EC Treaty to EU citizens residing in a Member State of which they are not nationals.

According to the petitioners a very high percentage of the voting applications for community voters posted by the municipality before the May 2007 local elections did not reach the addressees. Some 12,300 out of a total of 16,000 application forms which were sent out were returned without having been delivered because of the wrong addresses that the municipality used in its correspondence. Given the high failure rate in delivery, the authorities decided to send out the application forms for a second time.

The petitioners allege that the high failure rate in delivery is due to the mismanagement of official addresses in Orihuela. According to them, there are huge discrepancies between officially used urbanisation names and the actual ones which the postal offices can recognise.

The petitioners admit that enrolment to vote for municipal elections is not exclusively possible by post, i.e. sending back to the authorities the filled-in application form. Registration to vote is also possible by going *in person* to the competent offices and filling in the application.

Article 19.(1) of the EC Treaty stipulates that the citizen of the Union residing in a Member State of which he/she is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he/she resides, under the same conditions as nationals of that State.

Directive 94/80 laying down the arrangements for the exercise of these rights stipulates in its Article 7.1 that voters shall exercise their right to vote in municipal elections in the Member State of residence if they have expressed the wish to do so.

The Directive does not specify the administrative procedure for the enrolment of the Community voters nor for the method by which the EU citizen expresses his/her wishes to exercise his/her vote. It is up to the Member States to lay down the specific rules which should be effective.

In the case at hand, there appear to be two methods for the expression of the wish to vote. The first - the possibility granted to EU citizens to request in person their enrolment to vote with the competent authorities of the Member State of residence - is a procedure that is broadly used across the Member States. If this procedure is effectively operational and the conditions are similar to those imposed on national voters, it can be considered as a correct implementation of the electoral rights granted to EU citizens by the EC Treaty. The second method is that of posting out application forms. There is no obligation via the directive that the Member States should send personal letters to the concerned citizens for this purpose.

In these circumstances, the fact that application forms posted by the Municipality of Orihuela did not reach in all cases the Community voters to whom they were addressed does not, given the availability of an alternative method, *per se* constitute an obstacle to the exercise of the

right to vote.

Having examined the case as presented by the petitioners, the Commission has not identified any violation of the Community law in question by the Municipality of Orihuela.

As regards the more general issue of the provision of information to EU nationals residing in Spain on their electoral rights, in its report of 30/5/2002 on municipal elections¹ and in the report of 12/12/2006 on the 2004 EP elections² the Commission found that besides individual letters the Spanish authorities launched TV and radio campaigns, distributed brochures and opened Internet sites in order to make these electoral rights known.

As regards the 2007 municipal elections, the Spanish Minister of the Interior ran a campaign consisting of TV and radio ads informing European Union citizens about their right to participate in these elections and the existence of a dedicated telephone number on which further information could be obtained. Furthermore, the English website of the Electoral Census Office gave detailed information on the modalities of the exercise of these rights.

Upcoming reports of the Commission on the implementation of these Directives will continue to monitor how the Member States provide effective information on these issues.

4. Further Commission reply, received on 13 January 2011.

Further to its previous communication on this petition, the Commission would like to inform the Petitions committee that the last report on the implementation of Directive 94/80 (participation of EU citizens in municipal elections organised in their Member State of residence) was adopted in 2002 and can be found under the following link :

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52002DC0260:EN:NOT>

The next report on the same issue is planned for 2011.

As for participation of EU citizens in European elections, the recent report on the European elections adopted on 27 October 2010 together with the 2010 EU citizenship report, assesses the implementation of these rights and identifies further actions needed.

These reports can be downloaded via the following link :

http://eur-lex.europa.eu/Result.do?T1=V5&T2=2010&T3=603&RechType=RECH_naturel&Submit=Search

¹ COM/2002/260

² COM/2006/790