DRAFT OPINION

of the Committee on Constitutional Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the Proposal for a Council Directive laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by Union citizens residing in a Member State of which they are not nationals (recast)

Rapporteur for opinion: Alin Mituța
SHORT JUSTIFICATION

Approximately 13.3 million EU citizens live in an EU Member State that is not their country of origin. Of these so-called ‘mobile’ citizens, over 11 million have the legal age to vote and stand as a candidate in elections. Under Council Directive 94/80/EC on the right of mobile EU citizens to vote and stand as a candidate in municipal elections, mobile citizens can participate in municipal elections in their country of residence, under the same conditions as nationals of that state.

26 years after the lapse of the transposition deadline of the above-mentioned directive, voter turnout among mobile citizens remains low compared to nationals of the host Member State. While the EU and Member States have removed legal hurdles that were hindering mobile citizens to exercise their electoral rights in their country of residence, many de facto and de jure obstacles remain.

Voter registration, access to information and administrative barriers appear to be major obstacles. Approximately half of the Member States include mobile EU citizens automatically in their electoral roll when they register for residence, while the remainder impose a separate voter registration procedure. While it is of utmost importance that information reaches citizens when they formally reside in a Member State and that they are regularly reminded of this information, clear communication about the upcoming elections is often lacking.

Moreover, there is a real lack of public and comparable data. In several countries, registration rates for mobile EU voters are not published. Several Member States do not keep record of the amount of mobile EU citizens standing as a candidate in their municipal elections. Where data is kept and exchanged, the scope and format of the reporting are inconsistent and vary between Member States, leading to incomparable results.

The Commission proposes specific amendments to the above Council Directive in order to address certain shortcomings. The new proposal is intended to simplify the process of registering EU mobile citizens to vote and run in local elections and to reduce the administrative barriers faced by EU mobile citizens by imposing standardised templates for official declarations. Member States will be required to designate authorities to proactively inform EU mobile citizens about the detailed conditions and rules for registering as a voter or candidate in local elections.

Your rapporteur supports a broad and inclusive participation of all citizens to the electoral process, including mobile citizens and believes that in order to respond most efficiently to this mission, it is essential to address the hurdles identified above.

In order to achieve this, it is crucial to strengthen several pillars.

One pillar is information. Language can pose a barrier if the information is only provided in the local language and in a format that is insufficiently accessible. In addition, the manner in which the information reaches the citizens is a crucial factor. Mobile citizens may not sufficiently understand the domestic political system and may be unfamiliar with political parties in their country of residence. This can create a ‘representation gap’, a situation in which the views of mobile citizens are disproportionally less represented, due to low turnout. This is why information should ideally be provided in the native language of the mobile
citizens, and at least also in an official language of the Union other than that or those of the host Member State, broadly understood by the largest possible number of Union citizens residing on its territory.

Given the differences in local government structures and the fact that municipal elections might be held in different cycles, in different parts of the same Member State, appropriate information on the right to vote, the administrative steps to exercise this right, as well as the nature of the political system and customs, should be provided to Union citizens when they establish their residence and should be reminded periodically.

Another pillar is registration. In order to increase mobile citizens’ awareness of their voting rights in the Member State of residence, national authorities that do not foresee automatic registration in the electoral roll should be required to duly inform them of the possibility to opt for registration in the electoral roll when they register for residence. Automatic registration should be incentivized to increase the uptake of mobile citizens in the democratic life of the Member State of residence.

Furthermore, there should be a clear distinction between electoral rolls. Member States should keep two separate records for local and European elections and mobile citizens should be duly informed of their rights under the respective electoral systems, including the option to maintain their voting rights in their home country. Two different electoral rolls would help mobile citizens make an informed choice and thus avoid any confusion.

Last but not least, there is the access to vote pillar. Mobile citizens should have the same access to electronic and remote voting as nationals of the Member State. The conditions governing the right to vote and the right to participate in local elections should be clear and not leave room for bureaucratic pitfalls. Moreover, mobile citizens should have access to effective legal recourse where their rights set forth in this Directive are seemingly not observed.
AMENDMENTS

The Committee on Constitutional Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) The electoral procedure related to municipal elections falls within the competences of the Member States that organise them reflecting their specific traditions and in accordance with international and European standards. In line with International Covenant on Civil and Political Rights as well as the law of the European Convention on Human Rights, Member States should not only recognise and respect the right of Union citizens to vote and to stand as a candidate but also ensure easy access to their electoral rights by removing as many obstacles to their participation in elections as possible.

Amendment

(5) The electoral procedure related to municipal elections falls within the competences of the Member States that organise them reflecting their specific traditions and in accordance with international and European standards. In line with International Covenant on Civil and Political Rights as well as the law of the European Convention on Human Rights, Member States should not only recognise and respect the right of Union citizens to vote and to stand as a candidate but also ensure easy access to information and to their electoral rights by removing all obstacles to their participation in elections.

Amendment 2

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

(6a) Non-national Union citizens should receive information about the possibility to vote or to stand as a candidate when they register as residents of a Member State of which they are not nationals. Information pertaining to the registration as a voter or as a candidate should also be provided periodically, ahead of municipal elections, in a timely fashion.

Amendment

(6a) Non-national Union citizens should receive information about the possibility to vote or to stand as a candidate when they register as residents of a Member State of which they are not nationals. Information pertaining to the registration as a voter or as a candidate should also be provided periodically, ahead of municipal elections, in a timely fashion.
manner, to all voters and persons entitled to stand as candidates pursuant to Article 3. Moreover, non-national Union citizens should be duly informed about their distinct rights under the municipal and European electoral systems.

Or. en

Amendment 3
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In order to facilitate the exercise by Union citizens of their right to vote and to stand as a candidate in their country of residence, such citizens should be entered on the electoral roll in sufficient time in advance of polling day. The formalities applicable to their registration should be as simple as possible. It should be sufficient for the Union citizens concerned to produce a valid identity card and a formal declaration that include elements evidencing their entitlement to participate in the elections. Once registered, non-national Union citizens should remain on the electoral roll under the same conditions as Union citizens who are nationals of the Member State concerned, for as long as they satisfy the conditions for exercising the right to vote. Additionally, Union citizens should provide the competent authorities with contact information, enabling those authorities to keep them informed on a regular basis.

Amendment

(8) In order to facilitate the exercise by Union citizens of their right to vote and to stand as a candidate in their country of residence, such citizens should be entered on the electoral roll in sufficient time in advance of polling day. They are ideally entered automatically in the electoral roll upon registration for residence. The formalities applicable to their registration should in any case be as simple as possible. It should be sufficient for the Union citizens concerned to produce a valid identity card and, in duly justified cases, a formal declaration that include elements evidencing their entitlement to participate in the elections. Once registered, non-national Union citizens should remain on the electoral roll under the same conditions as Union citizens who are nationals of the Member State concerned, for as long as they satisfy the conditions for exercising the right to vote. Additionally, Union citizens should provide the competent authorities with contact information, enabling those authorities to keep them informed on a regular basis. Non-national Union citizens entitled to stand as candidates in their Member State of residence should be subject to the same administrative requirements as nationals of that Member
State, when it is necessary to demonstrate a minimum residence period as a resident in a basic local government unit.

Or. en

Justification

Automatic registration is consistent with the current legal framework and is the best guarantee to increase the uptake of “mobile citizens” in the democratic life of the host country. The freedom to choose does not prevent automatic registration, which in itself does not exclude a right to opt out.

Amendment 4
Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The lack of adequate information, in the context of electoral procedures, affects citizens in the exercise of their electoral rights as part of their rights as Union citizens. It also affects the capacity of competent authorities to exercise their rights and to deliver on their obligations. Member States should be required to designate authorities with special responsibilities for providing appropriate information to Union citizens on their rights under Article 20(2), point (b), and Article 22(1) TFEU and the national rules and procedures regarding participation in and the organization of municipal elections. In order to ensure the effectiveness of communications, information should be provided in clear and comprehensible terms.

Amendment

(16) In many Member States, there are differences in local government structures, and occasionally municipal elections are held on different periods in different parts of the same Member State. In this context, the lack of adequate information, in the context of electoral procedures, affects citizens in the exercise of their electoral rights as part of their rights as Union citizens. It also affects the capacity of competent authorities to exercise their rights and to deliver on their obligations. Member States should be required to designate authorities with special responsibilities for providing appropriate information to Union citizens on their rights under Article 20(2), point (b), and Article 22(1) TFEU and the national rules and procedures regarding participation in and the organization of municipal elections. In order to ensure the effectiveness of communications, information should be provided in clear and comprehensible terms and in a timely manner, at least upon registration for residence and sufficiently in advance of the next elections.
Amendment 5
Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

(16a) In order to avoid a situation in which the views of non-national Union citizens are disproportionately less represented than those of citizens who are nationals of the Member States concerned, due to low turnout related to the lack familiarity with the local political landscape, Member States should provide appropriate information to Union citizens on the right to vote, the administrative steps to exercise that right, as well as the nature of the political system and traditions. This information should be provided when non-national Union citizens register their residence and should also be sent periodically, before municipal elections.

Amendment

(16a) In order to avoid a situation in which the views of non-national Union citizens are disproportionately less represented than those of citizens who are nationals of the Member States concerned, due to low turnout related to the lack familiarity with the local political landscape, Member States should provide appropriate information to Union citizens on the right to vote, the administrative steps to exercise that right, as well as the nature of the political system and traditions. This information should be provided when non-national Union citizens register their residence and should also be sent periodically, before municipal elections.

Amendment 6
Proposal for a directive
Recital 17

Text proposed by the Commission

(17) In order to improve the accessibility of electoral information, such information should be made available in at least one other official language of the Union than that or those of the host Member State, broadly understood by the largest possible number of Union citizens residing on its territory. Member States may use different official languages of the Union in specific parts of their territory or their regions

Amendment

(17) In order to improve the accessibility of electoral information, such information should be made available in at least one other official language of the Union than that or those of the host Member State, broadly understood by the largest possible number of Union citizens residing on its territory. Member States should be encouraged to provide information also in the native language of the non-national
depending on the language understood by the largest group of Union citizens residing therein.

Union citizen. Member States may use different official languages of the Union in specific parts of their territory or their regions depending on the language understood by the largest group of Union citizens residing therein.

Amendment 7

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) Data regarding the exercise of rights and the application of this Directive can be useful in the identification of measures necessary to ensure the effective exercise of Union citizens’ electoral rights. In order to improve the collection of data for municipal elections, it is necessary to introduce regular monitoring and reporting of implementation by Member States, which should include, besides statistical data, information on the measures taken to support participation in elections of non-national Union citizens. The Commission should assess the application of the Directive, including any changes in the electorate that have taken place since its entry into force and submit a report in this connection to the European Parliament and to the Council.

Amendment

(23) Data regarding the exercise of rights and the application of this Directive is critical in the evaluation of the relevant Union policy and the identification of measures necessary to ensure the effective exercise of Union citizens’ electoral rights. In order to increase and improve the collection and reporting of data by Member States for municipal elections, it is necessary to introduce regular monitoring and to harmonise the reporting of implementation, which should include, besides uniform statistical data, information on the measures taken to support participation in elections of non-national Union citizens. The Commission should assess the application of the Directive, including any changes in the electorate that have taken place since its entry into force and submit a report in this connection to the European Parliament and to the Council.

Amendment 8

Proposal for a directive
Article 7 – paragraph 3
3. Member States where voting is not compulsory may provide for the automatic registration of voters pursuant to Article 3 on the electoral roll.

3. Both Member States where voting is not compulsory and Member States where voting is compulsory may provide for the automatic registration of voters pursuant to Article 3 on the electoral roll.

*Or. en*

**Justification**

*this amendment is connected to AM 3 and therefore necessary for pressing reasons relating to the internal logic of the text and the amendment is inextricably linked to other admissible amendments.*

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**Amendment 9**

Proposal for a directive Article 8 – paragraph 1

*Text proposed by the Commission*

1. Member States shall take the necessary measures to enable a voter pursuant to Article 3 to be entered on the electoral roll sufficiently in advance of polling day.

*Amendment*

1. Member States shall take the necessary measures to enable a voter pursuant to Article 3 to be entered on the electoral roll sufficiently in advance of polling day. Member States shall enable registration as soon as the voter concerned registers for residence.

*Or. en*

**Justification**

*This amendment is connected to AM 3 and therefore necessary for pressing reasons relating to the internal logic of the text and because the amendment is inextricably linked to other admissible amendments. Automatic registration in the electoral roll upon registration for residence is the best guarantee for maximum uptake of mobile citizens in the democratic life of the host country.*

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**Amendment 10**

Proposal for a directive Article 8 – paragraph 5 a (new)
5a. The Member State of residence shall establish a distinct electoral roll for municipal elections. The electoral roll for the municipal elections of the Member State of residence of voters pursuant to Article 3 shall not be automatically linked with the electoral roll for European elections of the respective Member State.

Justification

There is the need to increase the awareness of mobile citizens of their rights under the distinct electoral systems. There are two types of elections, with different purposes, and therefore this should be reflected in the electoral rolls. There are mobile citizens who wish to vote in the Member State where they reside in local elections, and for the European elections in the Member State of origin. This is why they might be reluctant to be in a single electoral roll. Two different rolls would help them make an informed choice and thus avoid any confusion.

Amendment 11

Proposal for a directive
Article 10 – paragraph 1

Member States that provide for the possibility for nationals to vote by means of advance voting, postal voting, and electronic and internet voting in municipal elections shall ensure that such means of voting are also available under the same conditions to voters pursuant to Article 3.

Member States that provide for the possibility for nationals to vote by means of advance voting, postal voting, and electronic and internet voting in municipal elections shall ensure that such means of voting are also available under the same conditions to voters pursuant to Article 3, and that those voters have the right to choose or switch the desired means of voting under the same conditions as nationals of those Member States.

Amendment 12
Proposal for a directive
Article 11 – paragraph 1

**Text proposed by the Commission**

1. The Member State of residence shall inform the concerned persons in **good time** and in clear and plain language of the decision taken on their application for entry on the electoral roll or of the decision concerning the admissibility of their application to stand as a candidate.

**Amendment**

1. The Member State of residence shall inform the concerned persons in **a timely manner** and in clear and plain language, **in their native language, or in official languages of the Union other than that or those of the host Member State, broadly understood by the largest possible number of Union citizens residing on its territory**, of the decision taken on their application for entry on the electoral roll or of the decision concerning the admissibility of their application to stand as a candidate.

Or. en

**Amendment 13**

Proposal for a directive
Article 11 – paragraph 3

**Text proposed by the Commission**

3. In case of errors in the electoral roll or in the list of candidates for municipal elections, the person concerned shall be entitled to legal remedies on similar terms as the laws of the Member State of residence prescribe for voters and persons entitled to stand as candidates who are its nationals.

**Amendment**

3. In case of errors in the electoral roll or in the list of candidates for municipal elections, the person concerned **shall be informed thereof in a timely manner and** shall be entitled to legal remedies on similar terms as the laws of the Member State of residence prescribe for voters and persons entitled to stand as candidates who are its nationals.

Or. en

**Amendment 14**

Proposal for a directive
Article 12 – paragraph 1 a (new)
1a. The designated authority shall collaborate with other competent authorities to ensure that citizens are informed of their rights under this Directive as soon as they register for residence in the Member State concerned. A person entitled to vote and stand as a candidate pursuant to Article 3 who establishes his residence in a basic local government unit, shall automatically receive information about their rights under this Directive. That information shall also be provided periodically, sufficiently ahead of municipal elections, to all voters and persons entitled to stand as candidates pursuant to Article 3.

Or. en

Amendment 15

Proposal for a directive
Article 12 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Persons entitled to vote and to stand as a candidate pursuant to Article 3 shall be informed about their registration in the electoral roll for municipal elections and that European elections have a different electoral roll.

Or. en

Justification

There is the need to increase the awareness of mobile citizens of their rights under the distinct electoral systems. There are two types of elections, with different purposes, and therefore this should be reflected in the electoral rolls. There are mobile citizens who wish to vote in the Member State where they reside in local elections, and for the European elections in the Member State of origin. This is why they might be reluctant to be in a single electoral roll. Two different rolls would help them make an informed choice and thus avoid any confusion.

Amendment 16
Proposal for a directive
Article 12 – paragraph 3 – subparagraph -1 (new)

Text proposed by the Commission

Amendment

The designated authority shall inform the persons entitled to vote and to stand as candidates pursuant to Article 3 on the history, features and peculiarities of the political system of the Member State.

Or. en

Amendment 17

Proposal for a directive
Article 12 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The information referred to in the first subparagraph shall, in addition to being communicated in one or more of the official languages of the host Member State also be accompanied by a translation in at least one other official language of the Union that is broadly understood by the largest possible number of European Union citizens residing on its territory, in accordance with the quality requirements in Article 9 of Regulation (EU) 2018/1724 of the European Parliament and of the Council28.

Amendment

The information referred to in the first subparagraph shall, in addition to being communicated in one or more of the official languages of the host Member State also be accompanied by a translation in their native language, or in official languages of the Union other than that or those of the host Member State, broadly understood by the largest possible number of European Union citizens residing on its territory, in accordance with the quality requirements in Article 9 of Regulation (EU) 2018/1724 of the European Parliament and of the Council28.


Or. en
Amendment 18

Proposal for a directive
Article 14 – title

Text proposed by the Commission

Amendment

Reporting

Data collection and reporting

Or. en

Justification

this AM connects to AM 19 and therefore necessary for pressing reasons relating to the internal logic of the text and the amendment is inextricably linked to other admissible amendments.

Amendment 19

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Within three years of the entry into force of this Directive and every four years thereafter, the Member States shall report to the Commission on the application of this Directive in their territory, including on the application of Article 5(3) and (4). The report shall contain statistical data on the participation in municipal elections of voters and candidates pursuant to Article 3 and a summary of measures taken in that regard.

1. Within two years of the entry into force of this Directive and every two years thereafter, the Member States shall report to the Commission on the application of this Directive in their territory, including on the application of Article 5(3) and (4). The report shall contain uniform statistical data on the participation in municipal elections of voters and candidates pursuant to Article 3 and a detailed overview of measures taken in that regard.

Or. en

Amendment 20

Proposal for a directive
Article 14 – paragraph 2 a (new)
2a. The Commission is empowered to adopt delegated acts in accordance with Article 16 concerning a template and the form of the data to be collected for the purposes of paragraph 1 of this Article.

Amendment 21

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

Within two years after the 2029 elections to the European Parliament, the Commission shall assess the application of this Directive and produce an evaluation report on the progress towards achievement of the objectives contained herein.

Amendment

Within one year after the 2029 elections to the European Parliament, the Commission shall assess the application of this Directive and produce an evaluation report on the progress towards achievement of the objectives contained herein.