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COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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to:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	Commission Recommendation of 12.3.2013 on enhancing the democratic and efficient conduct of the elections to the European Parliament

Delegations will find attached Commission document C(2013) 1303 final.

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Brussels, 12.3.2013
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COMMISSION RECOMMENDATION

of 12.3.2013

**on enhancing the democratic and efficient conduct of the elections to the European
Parliament**

COMMISSION RECOMMENDATION

of 12.3.2013

on enhancing the democratic and efficient conduct of the elections to the European Parliament

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Article 10(2) of the Treaty on European Union states that citizens are directly represented at Union level in the European Parliament. This helps to ensure that democratic control and accountability occur at the level at which decisions are taken.
- (2) Article 10(3) of the Treaty on European Union states that every citizen shall have the right to participate in the democratic life of the Union and that decisions shall be taken as openly and as closely as possible to the citizen.
- (3) The Treaty of Lisbon enhances the role of citizens of the Union as political actors, establishing a solid link between citizens, the exercise of their political rights and the democratic life of the Union.
- (4) Reinforcing the democratic legitimacy of the EU decision-making process and bringing the system closer to Union citizens is particularly relevant in view of the actions required at EU level to address the financial and sovereign debt crisis.
- (5) The Commission Communication of 28 November 2012 on "A blueprint for a deep and genuine economic and monetary union – Launching a European debate"¹ underlined that reinforced democratic legitimacy and accountability are a necessary part of any European Union reform.
- (6) Article 10(4) of the Treaty on European Union and Article 12(2) of the Charter of Fundamental Rights of the European Union confer a key role on European political parties highlighting their contribution to forming European political awareness and to expressing the will of the citizens of the Union.
- (7) To enable European political parties to fully accomplish their mission, on 12 September 2012 the Commission presented a proposal for a Regulation on the statute and funding of European political parties and European political foundations². This proposal aims at ensuring that European political parties can benefit from a more visible status and a more flexible, transparent and efficient framework for their

¹ COM(2012) 777 final/2.

² COM(2012) 499 final.

funding. The Commission also proposed that European political parties would have to take, in the context of the elections to the European Parliament, all appropriate measures to inform citizens of the Union of the affiliation between national political parties and the European political parties. When adopted, the new Regulation would repeal and replace Regulation (EC) N° 2004/2003 on the regulations governing political parties at European level and the rules regarding their funding³.

- (8) Creating a transparent link between the national parties for which citizens of the Union cast their votes and the European political parties to which the national parties are affiliated should allow European political parties to express more directly the will of citizens of the Union and should have a powerful impact on the transparency of decision-making in the Union.
- (9) Further enhancing the transparency of the elections to the European Parliament will contribute to better reflecting the strengthened role and powers of the European Parliament under the Treaty of Lisbon. Strengthening the connection of citizens of the Union to the democratic process of the Union is a necessary corollary to closer institutional integration.
- (10) Additional measures would enhance the visibility of the European political parties during the whole electoral process, from the campaign to the casting of votes, and enable them to efficiently bridge the divide between politics and citizens of the Union, complementing the information obligation foreseen for European political parties by the Commission proposal for a Regulation on the statute and funding of European political parties and European political foundations.
- (11) It is already an established practice in a number of Member States for some or all national parties to indicate on the ballots for elections to the European Parliament their affiliation to a European political party. To ensure the visibility of the European political parties during the whole European electoral process, it would be important that all Member States encourage and facilitate the provision of information to the electorate on the affiliation of national parties to European political parties. To further enhance the transparency of the elections to the European Parliament whilst at the same time increasing the accountability of political parties participating in the European electoral process and voters' trust in this process, national parties should make publicly known, ahead of the elections, their affiliation to a given European political party. Apart from various party events, such as party congresses, the electoral campaigns of the national parties are indeed the most appropriate and efficient means of making this affiliation known and give it strong visibility.
- (12) Decision 1093/2012/EU⁴ of the European Parliament and of the Council of 21 November 2012 declared that 2013 is the European Year of Citizens. Further enhancing the power of citizens in European Parliament elections is an important step to take place this year.
- (13) Since the Treaty of Lisbon, the President of the Commission is elected by the European Parliament, in accordance with the procedure laid down in Article 17(7) of the Treaty on European Union, and taking into account the arrangements foreseen in Declaration No 11 to the Treaty of Lisbon. These procedures require that the elections

³ OJ L 297, 15.11.2003, p. 1.

⁴ OJ L 325, 23.11.2012, p. 1.

to the European Parliament must be taken into account and that appropriate consultations between the European Council and the European Parliament must be carried out in electing the President of the Commission. These provisions thus reflect the increased role of the European Parliament in the designation of the President of the Commission and the relevance in this process of the outcome of the elections to the European Parliament.

- (14) In its Resolution of 22 November 2012 on Elections to the European Parliament in 2014⁵, the European Parliament urged the European political parties to nominate candidates for President of the Commission, noting that it expected those candidates to play a leading role in the parliamentary electoral campaign, in particular by personally presenting their programme in all Member States of the Union. This resolution further emphasises the increased role that the elections to the European Parliament play in electing the President of the Commission.
- (15) In its Communication of 28 November 2012 on "A blueprint for a deep and genuine economic and monetary union - Launching a European Debate", the Commission highlighted the nomination of candidates for President of the Commission by political parties in the elections to the European Parliament of 2014 as one of the important steps to foster the emergence of a genuine European political sphere.
- (16) It is therefore appropriate to raise the awareness of citizens of the Union regarding the pivotal role of their vote in determining who will be the President of the Commission and regarding the candidates for that function who are supported by the parties they vote for in the elections to the European Parliament.
- (17) If European political parties and national parties make known the candidates for President of the Commission they support, and the candidate's programme, in the context of the elections to the European Parliament, this would make concrete and visible the link between the individual vote of a citizen of the Union for a political party in the European elections and the candidate for President of the Commission supported by that party. This should increase the legitimacy of the President of the Commission, the accountability of the Commission to the European Parliament and the European electorate and, more generally, increase the democratic legitimacy of the whole decision-making process in the Union. Political broadcasts serve the purpose of allowing the electorate to make informed choices. Therefore it is appropriate that national political parties should also use this means to make known which candidate for President of the Commission they support and the candidate's programme.
- (18) Elections to the European Parliament currently take place over a period of several days as they are held on different days in different Member States. A common European voting day with polling stations closing at the same time would better reflect common participation by citizens across the Union and therefore is part of the representative democracy on which the EU is founded.
- (19) Citizens of the Union have the right to vote and to stand as candidates in elections to the European Parliament in the Member State where they choose to live, pursuant to Article 22(2) TFEU put into effect by Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand

⁵ European Parliament resolution of 22 November 2012 on the elections to the European Parliament in 2014 (2012/2829(RSP)).

as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals⁶.

- (20) Directive 93/109/EC establishes an information exchange mechanism aimed at ensuring that citizens cannot vote or stand as candidates in more than one Member State in the same elections.
- (21) A number of Commission reports on the application of Directive 93/109/EC over the years⁷, and most recently the 2010 report on the evaluation of the 2009 European elections⁸, have revealed deficiencies in the functioning of the mechanism to prevent multiple voting and candidacies. Those deficiencies are due in particular to the insufficient personal data that the Member States of residence notify under the Directive to the home Member States of citizens of the Union. The deficiencies are also due to the differences in the electoral calendars of the Member States. As a consequence, large numbers of citizens of the Union who registered to vote in their Member State of residence could not be identified by their home Member State.
- (22) Measures based on extensive consultations with Member States' experts and drawing upon good practices identified in this context could effectively address some of those deficiencies so as to improve the functioning of the mechanism in the 2014 European elections and to alleviate the administrative burden on national authorities.
- (23) The majority of Member States have already set up a single contact authority for exchanging data on voters and candidates in the framework of Directive 93/109/EC. The overall efficiency of the mechanism would be increased if all Member States were to set up such an authority.
- (24) The dates when electoral rolls close vary widely between Member States, ranging from two months to five days before election day. It would increase the efficiency of the mechanism if the Member States, taking into account the timing of the electoral process in the other Member States, would send the data on voters at a time when the national arrangements of the respective home Member States still allow for taking the necessary measures. Several further technical aspects of the transmission of data could be improved in order to increase the efficiency of the mechanism. These include the use of a common electronic format and a common character set, the mode of transmission and the encryption method applied to guarantee an appropriate level of protection of personal data.
- (25) The provision of certain additional personal data on voters to be notified by the Member States of residence, which are not expressly required by Directive 93/109/EC, would allow home Member States to identify more efficiently their nationals on the electoral rolls. The personal data which may be necessary for the efficiency of the mechanism varies between Member States.
- (26) Any processing of personal data within the framework of the information exchange mechanism should comply with the national laws implementing Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of

⁶ OJ L 329, 30.12.1993, p. 34.

⁷ COM(97)731 final, COM(2000)843 final, COM(2006)790 final.

⁸ COM (2010)605 final.

individuals with regard to the processing of personal data and on the free movement of such data⁹.

HAS ADOPTED THIS RECOMMENDATION:

DEMOCRATIC CONDUCT OF THE ELECTIONS

Encouraging and facilitating information for voters on the affiliation between national parties and European political parties

1. Member States should encourage and facilitate the provision of information to the electorate on the affiliation between national parties and European political parties before and during the elections to the European Parliament, inter alia by allowing and encouraging the indication of such an affiliation on the ballots used in those elections.

Informing voters about the affiliation between national parties and European political parties

2. National political parties participating in the elections to the European Parliament should make publicly known ahead of those elections their affiliation with European political parties. National political parties should prominently display their affiliation with European political parties in all campaign materials, communications and political broadcasts.

Support for a candidate for President of the European Commission

3. European and national political parties should make known, ahead of the elections to the European Parliament, the candidate for the function of the President of the European Commission they support and the candidate's programme.

National political parties should ensure that their political broadcasts in view of the European Parliament elections are also used to inform citizens about the candidate for the function of President of the European Commission they support and about the candidate's programme.

Common voting day

4. Member States should agree on a common day for elections to the European Parliament with polling stations closing at the same time.

EFFICIENT CONDUCT OF THE ELECTIONS

Single contact authority

5. The Member States should set up a single contact authority in charge of the exchange of data on voters, for the implementation of Article 13 of Directive 93/109/EC.

Transmission of data

⁹ OJ L 281, 23.11.1995, p. 31.

6. Member States should take account, as far as possible, of each other's electoral arrangements, so that the Member State of residence sends the data on voters in time for the respective home Member State to take the necessary measures.

Additional data allowing for more efficient identification

7. The Member States of residence are encouraged to transmit, in addition to the personal data foreseen in Article 9 of Directive 93/109/EC, all relevant personal data, which may be necessary for the identification of voters by the authorities of their home Member State.

Technical means for safe and efficient transmission of data

8. For exchanging the data as provided in Article 13 of Directive 93/109/EC the Member States should use a uniform and secure electronic means, as set out in the Annex. The Member States should transmit the data in one single package per home Member State, with one further transmission at a later stage for updates, where necessary.

This Recommendation is addressed to the Member States and to the European and national political parties.

Done at Brussels, 12.3.2013

For the Commission
Viviane REDING
Vice-President of the Commission

ANNEX

Detailed technical arrangements for the implementation of Article 13 of Directive 93/109/EC

1. For exchanging the data as provided in Article 13 of Directive 93/109/EC the Member States should use files following the Extensible Markup Language format ("XML"). These XML files should be transmitted exclusively via electronic means in a secure way.
2. The Member States should use the Universal Character Set Transformation Format—8-bit(UTF-8) to record and transmit the data of voters within the information exchange mechanism.
3. The Member States should use the W3C XML Encryption Syntax and Processing recommendation, involving the exchange of a Public key and a Private key, to guarantee an appropriate level of protection of the personal data transmitted.