



**COUNCIL OF
THE EUROPEAN UNION**

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PE 209
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NOTE

from:	Commission
to:	Delegations
No. initiative:	5204/07 PE 6 JUR 16 INST 5
No. prev. doc.:	9353/12 FREMP 67 JAI 297 PE 182 INST 307
Subject:	Proposal for a Directive amending Directive 93/109/EC of 6 December 1993 on the right to stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals: - Proposal for a recital on correlation tables: detailed justifications.

Delegations will find in the Annex the detailed justifications concerning the Commission proposal for a new recital (9) to be added to the draft Directive.

In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.

With regard to this Directive, the Commission considers the transmission of such documents to be justified for the following reasons:

- Complexity of the sector and of pre-existing national legislation: the right to vote and to stand in European elections in the Member State of residence is one of the rights that citizens of Member States can exercise as European Union citizens (Article 22 TFEU). This electoral right is also enshrined in the Charter of Fundamental Rights (Article 39) and thus it constitutes a fundamental political right of Union citizens.

The objective of the Directive proposal is to ensure an easier access for the Union citizens to exercise the right to stand as candidate in European elections.

National legislations in the field of elections are complex. There are differences as to whether European elections are regulated by a separate electoral law or, on the contrary, these elections are covered in one single electoral code, where such electoral code exists. In cases where such electoral code exist, this may cover the right of national citizens, Union citizens and third country nationals to participate in all types of elections, including local, presidential and national parliamentary elections.

The subjects covered in the amending Directive proposal touch upon several aspects of the electoral arrangements and, therefore, the various elements of the Directive are likely to be transposed in various different chapters of the national electoral laws. E.g. the proposal provides for new arrangements regarding the conditions for exercising the electoral rights: additional items of personal data of candidates, additional items in the declaration they have to provide when submitting an application to stand as a candidate. The Directive also provides for new tasks of the electoral management bodies: designation of one single contact point for the communication between the Member States to verify the eligibility of candidates, with specific rules on how this verification should be carried out. The requirement to provide explanatory documents is therefore justified in the light of the extent of the legislation concerned.

- Low estimated additional administrative burden of requesting explanatory documents from Member States: the Directive 1993/109/EC has been in place as from 1994 when it was first applied (European elections of 1994) and the amendments concern a limited number of provisions.
- Finally, in a subject matter which concerns fundamental rights of Union citizens in the relatively complex field of the political rights, the requirement to provide well-structured explanatory documents is justified for carrying out the task of overseeing the transposition.
- On the basis of the above, the Commission believes that the requirement to provide explanatory documents in the case of the proposed Directive is proportionate and does not go beyond what is necessary to achieve the objective to carry out efficiently the task of overseeing accurate transposition.

- Accordingly, the following standard recital should be included in the Directive proposal:

"In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified."
