

Protocol No 8

on elections to the European Parliament in certain new Member States during the interim period

THE HIGH CONTRACTING PARTIES,

Whereas certain of the new Member States wish to have the possibility of holding elections to the European Parliament during the interim period between the signature of this Treaty and its entry into force,

HAVE AGREED AS FOLLOWS:

Article 1

Pursuant to Article 31 (3) of this Act of Accession, any new Member State may hold elections to the European Parliament during the interim period between the signature of the Act of Accession and its entry into force in relation to that State.

Article 2

The relevant provisions of the Act of 20 September 1976 concerning the election of the representatives of the European Parliament by direct universal suffrage, which is annexed to Decision 76/787/ECSC, EEC, Euratom, as last amended by this Act of Accession, shall be deemed to apply to elections held pursuant to this Protocol.

The elections shall be held in accordance with the arrangements laid down in the Annex to this Protocol.

Article 3

The result of the elections held pursuant to Articles 1 and 2 shall take effect as from the date this Treaty enters into force for the new Member States which have held such elections.

Article 4

With regard to representatives elected pursuant to this Protocol, as from the date of accession of the Member States concerned:

- the European Parliament shall have the powers provided for in Article 11 of the Act of 20 September 1976 concerning the election of representatives of the European Parliament by direct universal suffrage;
- the Court of Justice shall have the same powers as if those elections had been held pursuant to Article 31 (1) of the Act of Accession.

ANNEX

Arrangements for elections to the European Parliament in certain new Member States during the interim period

CHAPTER I

General provisions

Article 1

For the purpose of this Annex:

- 'elections to the European Parliament' means elections by direct universal suffrage to the European Parliament of representatives in accordance with the Act of 20 September 1976 concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ No L 278, 8.10.1976, p. 5);
- 'electoral territory' means the territory of the new Member State in which, in accordance with the above Act and, within that framework, in accordance with the electoral law of that State, members of the European Parliament are elected by the people of that State;

- 'applicant State' means a new Member State which holds elections to the European Parliament in accordance with this Protocol before the entry into force of this Treaty;
- 'applicant State of residence' means an applicant State in which a citizen of the Union resides but of which he is not a national;
- 'home Member State' means the Member State of which a citizen of the Union is a national;
- 'Community voter' means any citizen of the Union who is entitled to vote in elections to the European Parliament in the applicant State of residence, in accordance with this Annex;
- 'Community national entitled to stand as a candidate' means any citizen of the Union who has the right to stand as a

candidate in elections to the European Parliament in the applicant State of residence by virtue of this Annex;

- 'electoral roll' means the official register of all voters entitled to vote in a given constituency or locality, drawn up and kept up to date by the competent authority under the electoral law of the applicant State of residence, or the population register if it indicates eligibility to vote;
- 'reference date' means the day or the days on which citizens of the Union must satisfy, under the law of the applicant State of residence, the requirements for voting or for standing as a candidate in that State;
- 'formal declaration' means a declaration by the person concerned, any inaccuracy in which makes that person liable to penalties, in accordance with the national law applicable.

Article 2

Any person who, on the reference date:

- (a) is a citizen of the Union within the meaning of the second subparagraph of Article 8 (1) of the EC Treaty;
- (b) is not a national of the applicant State of residence but satisfies the same conditions in respect of the right to vote and to stand as a candidate as that State imposes by law on its own nationals,

shall have the right to vote and to stand as a candidate in elections to the European Parliament in the applicant State of residence unless deprived of those rights pursuant to Articles 5 and 6.

Where, in order to stand as a candidate, nationals of the applicant State of residence must have been nationals for a certain minimum period, citizens of the Union shall be deemed to have met this condition when they have been nationals of a Member State for the same period.

Article 3

1. No person may vote in the applicant State if that person voted in the 1994 elections in any of the Member States.
2. No person may stand as a candidate in the applicant State if he stood as a candidate in the 1994 elections in any of the Member States.

Article 4

If, in order to vote or to stand as candidates, nationals of the applicant State of residence must have spent a certain minimum period as a resident in the electoral territory of that State, a Community voter or a Community national entitled to stand as a candidate shall be deemed to have fulfilled that condition where he has resided for an equivalent period in another Member State. This provision shall not prejudice any specific conditions as to length of residence in a given constituency or locality.

Article 5

1. Any citizen of the Union who resides in the applicant State of which he is not a national and who, through an individual criminal law or civil law decision, has been deprived of his right to stand as a candidate under either the law of the applicant State of residence or the law of his home Member State, shall be precluded from exercising that right in the applicant State of residence in elections to the European Parliament.

2. An application from any citizen of the Union to stand as a candidate in elections to the European Parliament in the applicant State of residence shall be declared inadmissible where that citizen is unable to provide the attestation referred to in Article 9 (2).

Article 6

1. The applicant State of residence may check whether the citizens of the Union who have expressed a desire to exercise their right to vote there have not been deprived of that right in the home Member State through an individual criminal law or civil law decision.

2. For the purposes of paragraph 1, the applicant State of residence may notify the home Member State of the declaration referred to in Article 8 (2). To that end, the relevant and normally available information from the home Member State shall be provided in good time and in an appropriate manner; such information may only include details which are strictly necessary for the implementation of this Article and may be used only for that purpose. If the information provided invalidates the content of the declaration, the Member State of residence shall take the appropriate steps to prevent the person concerned from voting.

3. The home Member State may, in good time and in an appropriate manner, submit to the applicant State of residence any information necessary for the implementation of this Article.

Article 7

1. A Community voter exercises his right to vote in the applicant State of residence if he has expressed the wish to do so.
2. If voting is compulsory in the applicant State of residence, Community voters who have expressed the wish to do so shall be obliged to vote.

CHAPTER II

Exercise of the right to vote and the right to stand as a candidate

Article 8

1. The applicant State shall take the necessary measures to enable a Community voter who has expressed the wish to be entered on the electoral roll sufficiently in advance of polling day.

2. In order to have his name entered on the electoral roll, a Community voter shall produce the same documents as a voter who is a national. He shall also produce a formal declaration stating:

- (a) his nationality and his address in the electoral territory of the applicant State of residence;
- (b) where applicable, the locality or constituency of any other Member State on the electoral roll of which his name was last entered, and
- (c) that he has not exercised his right to vote in any of the Member States in the 1994 elections.

3. The applicant State of residence may also require a Community voter to:

- (a) state in his declaration under paragraph 2 that he has not been deprived of the right to vote in his home Member State;
- (b) produce a valid identity document, and
- (c) indicate the date from which he has been resident in that State or in another Member State.

4. Community voters who have been entered on the electoral roll shall remain thereon, under the same conditions as voters who are nationals, until such time as they request to be removed or until such time as they are removed automatically because they no longer satisfy the requirements for exercising the right to vote.

Article 9

1. When he submits his application to stand as a candidate, a Community national shall produce the same supporting documents as a candidate who is a national. He shall also produce a formal declaration stating:

- (a) his nationality and his address in the electoral territory of the applicant State of residence;
- (b) that he was not standing as a candidate for election to the European Parliament in 1994 in any other Member State, and
- (c) where applicable, the locality or constituency of any other Member State on the electoral roll of which his name was last entered.

2. When he submits his application to stand as a candidate a Community national must also produce an attestation from the competent administrative authorities of his home Member State certifying that he has not been deprived of the right to stand as a candidate in that Member State or that no such disqualification is known to those authorities.

3. The applicant State of residence may also require a Community national entitled to stand as a candidate to produce a valid identity document. It may also require him to indicate the date from which he has been a national of a Member State.

Article 10

1. The applicant State of residence shall inform the person concerned of the action taken on his application for entry on the electoral roll or of the decision concerning the admissibility of his application to stand as a candidate.

2. Should a person be refused entry on the electoral roll or his application to stand as a candidate be rejected, the person concerned shall be entitled to legal remedies on the same terms as the legislation of the applicant State of residence prescribes for voters and persons entitled to stand as candidates who are its nationals.

Article 11

The applicant State of residence shall inform Community voters and Community nationals entitled to stand as candidates in good time and in an appropriate manner of the conditions and detailed arrangements for the exercise of the right to vote and to stand as a candidate in elections in that State.

Article 12

The present Member States and the applicant State shall exchange the information required for the implementation of Article 3.

CHAPTER III

Derogations and transitional provisions

Article 13

1. If on 1 January 1993, in the applicant State, the proportion of citizens of the Union of voting age who reside in it but are not nationals of it exceeds 20 % of the total number of persons entitled to vote, the applicant State may, by way of derogation from Articles 2, 8, and 9:

- (a) restrict the right to vote to Community voters who have resided in the applicant State for a minimum period, which may not exceed five years;
- (b) restrict the right to stand as a candidate to Community nationals entitled to stand as candidates who have resided in the applicant State for a minimum period, which may not exceed 10 years.

These provisions are without prejudice to appropriate measures which the applicant State may take with regard to the composition of lists of candidates and which are intended in particular to encourage the integration of non-national citizens of the Union.

However, Community voters and Community nationals entitled to stand as candidates who, owing to the fact that they have taken up residence outside their home Member State or by reason of the duration of such residence, do not have the right to vote or to stand as candidates in that home State shall not be subject to the conditions as to length of residence set out above.

2. The applicant State which invokes derogations under paragraph 1 shall furnish the Commission with all the necessary background information.