Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1459 (2005)[1]

Abolition of restrictions on the right to vote

Parliamentary Assembly

1. The Parliamentary Assembly, in line with its Recommendation 1500 (2001) on the participation of immigrants and foreign residents in political life in the Council of Europe member states, stresses the importance of the right to vote and to stand in elections as a basic precondition for preserving other fundamental civil and political rights upheld by the Council of Europe. Electoral rights are the basis of democratic legitimacy and representativeness of the political process. They should, therefore, evolve to follow the progress of modern societies towards ever inclusive democracy.

2. In accordance with the opinion of the European Commission for Democracy through Law (Venice Commission) adopted in December 2004, it therefore invites the member and observer states of the Organisation to reconsider all existing restrictions to electoral rights and to abolish all those that are no longer necessary and proportionate in pursuit of a legitimate aim.

3. The Assembly considers that, as a rule, priority should be given to granting effective, free and equal electoral rights to the highest possible number of citizens, without regard to their ethnic origin, health, status as members of the military or criminal record. Due regard should be given to the voting rights of citizens living abroad.

4. In line with the case-law of the European Court of Human Rights, any exceptions to this rule must be prescribed by law, pursue a legitimate aim and not be arbitrary or disproportionate.

5. All legal residents are normally obliged to pay local taxes and their lives are directly affected by the decisions of local authorities. The right to vote and to stand as candidates in local elections should therefore be granted to all legal residents having lived long enough in the country, regardless of their nationality or ethnic origin. In this context, the Assembly urges the countries concerned to implement the recommendations by the Council of Europe Commissioner for Human Rights on granting that right to residents with the special status of "non-citizens", in accordance with the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).

6. In view of the possible conflict of loyalties between the country of which a person is a national and the country of residence, the right to vote and stand as a candidate in national elections (parliamentary or presidential) should generally be attached to nationality. Persons having several nationalities should be allowed to choose freely in which country they wish to exercise their right to vote.

7. Given the importance of the right to vote in a democratic society, the member countries of the Council of Europe should enable their citizens living abroad to vote during national elections bearing in mind the complexity of different electoral systems. They should take appropriate measures to facilitate the exercise of such voting rights as much as possible, in particular by considering absentee (postal), consular or e-voting, consistent with Recommendation Rec(2004)11 of the Committee of Ministers to member states on legal, operational and technical standards for e-voting. Member states should co-operate with one another for this purpose and refrain from placing unnecessary obstacles in the path of the effective exercise of the voting rights of foreign nationals residing on their territories.

---

1. Assembly debate on 24 June 2005 (24th Sitting) (see Doc. 10553, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Eker; and Doc. 10577, opinion of the Political Affairs Committee, rapporteur: Lord John Tomlinson). Text adopted by the Assembly on 24 June 2005 (24th Sitting).

8. Considering that rehabilitation of prisoners, aimed at their reintegration into society – giving them all the rights and duties accorded to other citizens – is one of the purposes of criminal sanctions, the Assembly regrets that in many countries persons convicted of a criminal offence are barred from voting, in some cases even for some time after their release from prison. A more modern approach would be to limit the withdrawal of the right to vote to crimes committed against the democratic process (for example, election fraud, illicit pressure on voters or candidates, participation in a military putsch, participation in terrorist activities as established by a court judgment). In any case, in view of the judgment of the European Court of Human Rights in the case of Hirst v. the United Kingdom (30 June 2004), national parliaments should reconsider existing restrictions and determine whether they still pursue a legitimate aim and are not arbitrary or disproportionate.

9. As stressed by the Venice Commission, the need for democratic control over the military should not be used as an excuse to automatically deprive military servicemen of their voting rights.

10. The Assembly also stresses the importance of protecting the voting rights of vulnerable groups, such as residents of nursing homes, prison inmates, soldiers and handicapped people. Appropriate measures must be taken to avoid any undue influence by helpers, supervisors or hierarchical superiors, in particular by ensuring the secrecy of the vote.

11. The Assembly therefore invites:

the Council of Europe member and observer states concerned to:

a. reduce minimum age requirements for active and passive electoral rights to 18 years for the right to vote and 25 years for the right to stand as candidates;

b. grant electoral rights to all their citizens (nationals), without imposing residency requirements;

c. facilitate the exercise of expatriates' electoral rights by providing for absentee voting procedures (postal and/or consular voting) and considering the introduction of e-voting consistent with Recommendation Rec(2004)11 of the Committee of Ministers and to co-operate with one another to this end;

d. to sign and ratify the 1992 Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level and to grant active and passive electoral rights in local elections to all legal residents;

e. to reconsider existing restrictions on the electoral rights of prisoners, persons who have been convicted of a criminal offence and members of the military, with a view to abolishing all those that are no longer necessary and proportionate in pursuit of a legitimate aim;

f. to take appropriate measures to protect the electoral rights of vulnerable groups of voters (in particular, persons living in nursing homes, prisoners, members of the military, nomadic groups), in line with the Venice Commission's Code of Good Practice in Electoral Matters adopted in July 2003;

the Council of Europe, and in particular the Venice Commission, to develop further its activities aimed at improving the conditions for the effective exercise of electoral rights, putting a special emphasis on co-operation aimed at facilitating the exercise of electoral rights by expatriate citizens.