



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Directorate D: Equality and Union citizenship  
Unit D.3: Union citizenship rights and free movement

Brussels  
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**Subject: Your request to the Commission to open infringement proceedings against five Member States which due to residency abroad disenfranchise their citizens in national elections**

Dear Mr Venables,

I refer to your email of 2 August 2021 to President von der Leyen registered under Ares(2021)4929946 (*please quote this reference in any future correspondence*) in which you attach your request of July 2021 to the Commission to open infringement proceedings against five Member States (Cyprus, Denmark, Germany, Ireland and Malta) which disenfranchise their citizens in national elections due to residency abroad.

I have been asked to reply to you as head of unit 'Union citizenship rights and free movement'. Thank you for your email on this important issue, and for your regular invitations to your events and projects.

You note in your mail that the Commission (and indeed the European Parliament also) have repeatedly pointed to the problem of disenfranchisement and quote the part of the 2020 EU citizenship report which refers to this issue and to the Commission's call for the Member States concerned to abolish these disenfranchisement rules. You now urge the Commission to launch infringement proceedings against the five Member States concerned. This argument is based on the status of European citizenship, freedom of movement, discrimination, participation in the democratic life of the EU and universal suffrage.

As you point out, in January 2014, the Commission adopted a recommendation on the consequences of disenfranchisement of Union citizens exercising their rights to free movement (2014/53/EU). The Recommendation acknowledges that the current situation, whereby Union citizens exercising free movement rights may lose their right to participate in national elections of their home Member State, without acquiring that right in the host Member State, may be perceived as out of keeping with the founding premise of Union citizenship, namely that it is additional to national citizenship and is designed to

give additional rights to Union citizens. In such cases, the exercise of the right of free movement may lead to losing a right of political participation.

Union law as it currently stands does not impose an express obligation on Member States to retain the voting rights of nationals who have ceased residing in their State of nationality and have moved to live in another Member State. Furthermore, while the Treaties confer certain electoral rights on mobile Union citizens in their Member State of residence, such rights concern the participation in the municipal elections and elections to the European Parliament and do not cover national elections.

While the deprivation of the right of mobile EU citizens to vote in national elections of the Member State of origin may be considered as restricting the exercise of the freedom of movement as enshrined in the EU Treaties, it is well established that a restriction to a fundamental freedom will not amount to an infringement in cases where the restriction is justified by overriding grounds in the public interest and complies with the principle of proportionality.

In addition, we recall that in accordance with the Commission Communication ‘EU law: Better results through better application,<sup>1</sup>’ it is for the Commission to use its discretionary power in a strategic way and our choice at the moment is to prioritise dialogue. Indeed, noting that a European Citizens’ Initiative on this subject, entitled ‘VOTERS WITHOUT BORDERS, Full Political Rights for EU Citizens’, was registered in March 2020, and will remain open for signature until June 2022, the Commission will explore this topic further with the Member States.

Similarly, in the Commission’s proposed update of Directives 93/109/EC (alongside the update of Directive 94/80/EC) which includes an enhanced data exchange between Member State administrations, it is intended to prohibit deregistration of mobile EU citizens from other elections in their Member State of nationality solely on the basis of the data exchange foreseen by the Directive, which will stand as a valuable safeguard for mobile citizens exercising their rights.

Furthermore, the Commission will continue to work with the Member States to facilitate and improve the ability of EU citizens, including mobile EU citizens, to exercise their voting rights including by supporting the exchange of best practices and mutual assistance to ensure free and fair elections, including in the European Cooperation Network on Elections<sup>2</sup> and the expert group on electoral matters<sup>3</sup>.

Yours sincerely,

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<sup>1</sup> 2017/C 18/02

<sup>2</sup>[https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/electoral-rights/european-cooperation-network-elections\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/electoral-rights/european-cooperation-network-elections_en)

<sup>3</sup><https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=617&NewSearch=1&NewSearch=1>

Marie-Hélène BOULANGER  
Head of Unit  
(*e-signed*)