



**EUROPEAN COMMISSION**  
**DIRECTORATE-GENERAL JUSTICE AND CONSUMERS**

Directorate C: Fundamental rights and Union citizenship  
The Director

Brussels, **27 02. 2015**  
JUST/C2/GD/JMS/rg(2015)s762544

**NOTE FOR THE PERMANENT REPRESENTATION OF  
SWEDEN TO THE EUROPEAN UNION**

**Subject:       Guaranteeing the secrecy of the votes in the elections to the European Parliament**

The attention of the Commission has been drawn to the conduct of the elections to the European Parliament held in Sweden in 2014. It appears from a complaint sent to the Commission that some aspects related to the organization of the polling stations might not fully ensure the secrecy of the vote.

***Relevant EU legislation***

The Act of 1976 concerning the election of the members of the European Parliament<sup>1</sup> states in Article 1, paragraph 3, that:

*Elections shall be by direct universal suffrage and shall be free and secret.*

In addition, Article 39, paragraph 2, of the Charter of Fundamental Rights of the European Union rules that:

*Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.*

***Problems brought to the attention of the Commission***

According to the information at the disposal of the Commission, an individual ballot paper was used for each political party participating in the elections. The ballot paper contained the list of candidates of that specific political party. The ballot papers were on display in the polling stations with the names of the political parties clearly visible. On election-day, voters were to pick up from the various piles the ballot papers they wanted before entering the voting booth.

It derives that anyone present in the polling station (officials or other voters queuing up) were able to see who collected which ballot paper of which political party. The only way to keep the choice secret was to collect ballot papers ahead of election-day and bring them to the polling station, to collect several ballot papers from different political parties or even one ballot paper for each political party and take all ballots into the booth. Alternatively, voters

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<sup>1</sup> OJ L 278, 8.10.1976, p. 5, last amended by Decision 2002/772/EC, Euratom of 25.06 and 23.09 2002.

could use a blank ballot paper on which they insert a party name. However, it would seem that voters only rarely did so.<sup>2</sup>

It is clear from the EU rules cited above that Member States have the obligation to guarantee the principle of the secrecy of the vote. Secrecy must be ensured regardless of whether citizens are able to conceal their political choice if they voluntarily behave in a certain proactive way – e.g. by collecting ballot papers ahead of election-day, by taking several ballot papers or one for each political party in the polling station or by using blank ballot papers. Ensuring the secrecy of the vote is a matter for the authorities and not for voters. The fact that persons present in the polling station have the possibility to identify choices made by voters allows for asserting pressure on voters and controlling their voting behaviour. This may amount to a violation of the principle of the secrecy of the vote.

Against this background, the Commission would be grateful if the Swedish authorities could provide their observations on the issues abovementioned and explain how the right to a secret vote is effectively safeguarded in elections to the European Parliament in Sweden, no later than ten weeks after receipt of this note.



Paul NEMITZ

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<sup>2</sup> Report of the Swedish International Liberal Centre of 27 May 2014: <http://silc.se/wp-content/uploads/2014/05/Report-observation-mission-in-Sweden-25-May-20142.pdf>.