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ACCESS TO ELECTORAL RIGHTS

FINLAND

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Access to Electoral Rights

Finland

Sanna Salo

1. Introduction

1.1 Relevant Legislative Reform

There are four types of institutions open to electoral competition in Finland: the presidency, the national parliament, the councils of the municipalities and the European Parliament .

Foundations for Finnish electoral legislation were laid at the beginning of the twentieth century, as the Parliament Act and the Election Act of the Grand Duchy of Finland were enacted in 1906, and the first parliamentary elections were held in 1907. Subsequently, the first act on municipal elections came into force in 1917, the first President of the Republic of Finland was elected by Parliament in 1919, and in 1922 an act on the election of presidential electors was passed. In 1994 the President was, for the first time, elected directly by the people in a two-stage election. (Jääskeläinen 2010.)

When Finland joined the European Union on 1 January 1995, the Act on the Election of Finnish Representatives to the European Parliament was enacted. Through an amendment in 1998 all electoral legislation was merged into one single act - the Election Act (714/1998) - which entered into force on 8 October 1998. (Jääskeläinen 2010.)

Until 1976, Finnish citizenship was a precondition for franchise in all types of elections. Since then, the situation has remained the same with regard to parliamentary and presidential elections, but there have been several modifications with regard to municipal elections.

In 1976, the right to vote in municipal elections was granted to citizens of other Scandinavian countries (Iceland, Norway, Sweden and Denmark), provided that they had been resident in Finland for two years preceding the elections. In 1991, this right was also granted to other foreign residents, provided that they had been resident in Finland for four years preceding the elections. Finally, in 1995, the right to vote in municipal elections was granted to Scandinavian citizens on the same basis as Finnish citizens. Simultaneously, the period of residence granting the right to vote for non-Scandinavian foreigners was decreased from four to two years.

The right to vote in European Elections was extended by the Election Act 714/1998 to every citizen of another Member State of the European Union who has reached the age of eighteen not later than the day of election and whose municipality of residence, as defined by law, is in Finland on the 51st day before election day, unless he or she has lost the right to vote in his or her Member State of citizenship.

The voting rights of Finnish citizens abroad have not been subject to major legislative reform recently. In short, every Finnish citizen, regardless of domicile or their period of stay abroad, is entitled to vote in national elections and elections to the European Parliament.

Regional governments in Finland are not elected. In the region of Kainuu, a “democratic experiment” was conducted in 2005-2012, which included the election of the regional government by the inhabitants (Laki Kainuun hallintokokeilusta 9.5.2003/343). The elections were held in conjunction with municipal elections such that voters were required to cast two separate ballots. The Ministry of Finance is preparing legislation to continue the experiment. (Jääskeläinen 2010.)

1.2 Recent Political Debate

In line with broader European trends, recent political and public debate in Finland has centered on the *de facto* participation in political life of third country nationals, rather than actual extensions of legal participation rights. As observed in the European Parliament's committee on Civil Liberties, Justice and Home Affairs Briefing Paper “Trends in the EU-27 regarding participation of third- country nationals in the host country’s political life”, this issue has gained considerable attention at the EU-level since the 1990s. In 1992, the Council of Europe launched the Convention on the Participation of Foreigners in Public Life at Local Level. Following the position put forward by the Convention, the European Parliament stressed in a resolution in 2003 that civic participation, in fact, requires more than implementing legal initiatives. Furthermore, the European Commission has put forward the concept of “civic citizenship”, indicating that the extent of *de facto* participation goes beyond legal rights.

In Finland the public debate on electoral rights and the electoral behavior of third country nationals has not dealt extensively with possible extensions of legal rights to vote or with easing the requirements for citizenship, but more with enhancing the civic participation of those who already have such rights. The concentration has therefore been on the turnout of foreign residents in municipal elections – the only type of elections in which third-country nationals are allowed to vote – which has never exceeded twenty per cent in Finland. In the municipal elections of 2008, turnout among non-Finnish nationals was 19.6 per cent, whereas among Finnish nationals it was 61.3 per cent. The low turnout among non-Finnish nationals has been conceived as a major reason for the underrepresentation of the immigrant population in representative organs, from municipal councils to the national parliament. In addition, the relatively long residence requirement and the cumbersome process for acquiring Finnish Citizenship have been cited as major factors in the underrepresentation of immigrants.

The low turnout has been widely conceived as a failure in governmental measures of social integration. Third-country nationals may not, for instance, even be aware of their right to vote while their knowledge of how the political system functions may be poor. Such problems are undoubtedly exacerbated by persistent linguistic difficulties. Accordingly, in the Government Program for Social Integration for the years

2012-2015, the main goal is to increase turnout among non-Finnish nationals from twenty to 40 per cent in the municipal elections of October 2012.

European elections and the voting rights of citizens of other EU member states have not been subject to major political debate in recent years. Neither have the voting rights for expatriate Finnish nationals, although easing the voting procedure by introducing letter or Internet voting have at times been brought up. This has not, however, had any legislative consequences.

2. Eligibility: Who has electoral rights under national law?

2.1 Citizen residents

2.1.1. Age

In all types of Finnish election the age threshold for voting and being a candidate is eighteen.

According to the Constitution of Finland (1999/731, 14§) every Finnish citizen who has reached eighteen years of age has the right to vote in national elections and referendums. Every Finnish citizen and every foreigner permanently resident in Finland, having attained eighteen years of age, has the right to vote in municipal elections and municipal referendums.

Similarly, everyone with the right to vote and who is not under guardianship can be a candidate in parliamentary elections (Constitution of Finland 1999/731, 14§). According to the Election Act (1998/714, 164 §), the same provisions apply to elections to the European Parliament. Finally, according to the Local Government Act (1995/365, 33§), every person who has the right to vote in any municipality in the year of the elections can be a candidate.

The age thresholds have not been recently modified, but the possibility of lowering it to sixteen in municipal elections has been the topic of an intensive debate. In 2010, the Green Minister of Justice Tuija Brax set up a committee to investigate the matter. The background for this is the general low turnout in municipal elections, which normally amounts to around 60 percent (58.2 per cent in 2012). Allowing sixteen year olds to vote was hoped to raise turnout as well as to provide a form of civic education for young people. The initiative divided ranks in the Parliament as well as interest groups, such as student associations. The committee ended up not proposing any legal changes, but the issue remains in the political agenda.

2.1.2. Mental disabilities

There are no provisions in the Finnish law about disenfranchisement. In other words, every Finnish citizen above eighteen years of age can vote. However, the right to be a candidate in parliamentary election is denied to those who are legally incompetent (The Constitution of Finland 1999/731, 27§). The same provision applies for elections to municipal councils (Local Government Act 1995/365, 33§).

2.1.3. Criminals

Under Finnish law, all prisoners have the right to vote.

2.2 Citizens abroad

Finnish citizens who are either temporarily or permanently abroad have a right to vote in all national elections. Residence in the country is not a condition for being a candidate in national elections either.

However, the right to vote and be a candidate in municipal elections is conditional upon residence in a municipality. According to the Local Government Act (1995/365, 27§), in municipal elections held in a local authority, all citizens of Finland, other European Union Member States, Iceland and Norway shall have suffrage if the following conditions are met: they have reached the age of eighteen on the election date at the latest and their domicile as referred to in the Act on Domicile is that local authority according to the data in the population data system at the end of the 51st day before the election. Similarly, the right to be a candidate in municipal elections is reserved for those who are domiciled in the local authority concerned and entitled to vote in municipal elections in a local authority in the year in which councillors are elected or an election for some other elective office is held.

In national elections, according to government decree, citizens who are permanently or temporarily abroad on Election Day can vote in advance in Finnish embassies. The crew of a Finnish ship abroad may vote in advance on board the ship. (Jääskeläinen 2010.)

If a citizen who resides permanently abroad is in Finland on Election Day, she or he may also vote in the municipality indicated in the voting card, sent by her/him by the Ministry of Justice on the basis of the Voting Register. As provided in the Election Act (1998/714, 18§) if the enfranchised person does not have a municipality of residence in Finland 51 days prior to the polling day, the municipality entered in the population register as referred to in the Municipality of Residence Act shall be entered in the voting register instead of the municipality of residence. However, voting abroad is no longer possible on Election Day. As noted above, citizens who live permanently abroad can also act as candidates in all but municipal elections.

2.3 Foreign residents

According to the Local Government Act (1995/365, 27§), in municipal elections held in a local authority all citizens of Finland, other European Union Member States, Iceland and Norway who reach the age of eighteen on the election date at the latest, and whose domicile as referred to in the Act on Domicile is that local authority according to the data in the population data system at the end of the 51st day before the election, shall have suffrage. Other foreigners fulfilling these preconditions also have suffrage in municipal elections if they have been domiciled in Finland for two years at that date. (22.12.1995/1647)

In consultative referenda held in a local authority, citizens of Finland, other European Union Member States, Iceland and Norway who reach the age of 18 on the referendum date at the latest and whose domicile as referred to in the Act on Domicile is that local authority according to the data in the population data system at the end of the 51st day before the election, shall have suffrage. Other foreigners fulfilling these preconditions also have voting rights in a municipal referendum if they have been domiciled in Finland for two years at that date. (22.12.1995/1647)

Hence, those Scandinavian citizens who are not EU citizens, are, in the Local Government Act, considered as equal to EU citizens. This provision is part of a long tradition of cooperation between Finland, Iceland and Norway largely based on cultural, linguistic and institutional similarities.

3. Electoral rights of EU citizens

3.1 Local elections

Commission Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State, of which they are not nationals, was transposed into Finnish national legislation with the Local Government Act 1995/365, entering into force on 1 January 1996.

Registration on the electoral roll is automatic. More specifically, the Population Register Centre compiles a computer register of everyone entitled to vote (voting register) 46 days before Election Day. This procedure is the same for all voters, regardless of nationality.

No derogations of Directive 94/80/EC have been reported. On the contrary, Finland has received praise for its targeted measures to inform EU citizens of their right to vote and be candidates in municipal elections¹.

3.2 EP elections for EU citizens residing in the country

In addition to Finnish citizens, all citizens of EU Member States who reside in Finland and who have submitted a written declaration stating that they intend to vote in EP elections in Finland are enfranchised.

The general conditions for voting are the following:

- 1) The voter has reached the age of eighteen not later than on the day of the election
- 2) His or her municipality of residence, as defined by law², is in Finland on the 51st day before Election Day
- 3) He or she has not lost the right to vote in his or her Member State of citizenship.

A citizen of another European Union Member State who has the right to vote in European parliamentary elections in Finland shall be entered in the voting register used in European parliamentary elections provided the person has provided a written notification of his or her wish to use his or her right to vote in European parliamentary elections in Finland. Furthermore, it is required that the person, provided he or she has had a permanent municipality of residence in Finland after the notification, has not withdrawn the notification. The notification and the withdrawal of the notification shall

¹ http://ec.europa.eu/justice/citizen/files/com_2012_99_municipal_elections_en.pdf

Accessed on 14.2.2012.

² The residence in a Finnish Commune is regulated by Ulkomaalaislaki [the Aliens Act, 301/2004, amendments up to 1426/2009] Article 10, last modifications entered into force on 1 January 2010. Staying in Finland more than 3 months requires “registration of the right”. The permanent residence is granted after 5 years of staying. The residence is achieved by this registration. The registration takes place at the police office. There is no minimum period of residence required. However, the 80 days period regarding the entry on the electoral roll should be taken into account. (Kiikeri 2010, 4.)

be relayed to the local register office by 4 p.m. at least 80 days prior to the polling day. (Election Act 714/1998, 18§.)

After the voter has been included in the Finnish register, the authorities of his or her Member State of citizenship are informed so that they may then remove the voter from their electoral roll. This registration remains valid unless the voter cancels it, in order to vote in their home Member State in the next elections. Non-EU citizens who belong to the same family as an EU citizen enjoy the same electoral rights. A couple does not have to be married for this condition to hold – cohabitation, regardless of gender, is sufficient (Kiikeri 2010).

3.3 EP elections for national citizens abroad

All Finnish citizens who have reached the age of eighteen, regardless of domicile, are entitled to vote. Hence permanent residence abroad is an irrelevant consideration in this regard.

Finnish citizens abroad may vote in advance at a designated polling station. These polling stations usually are Finnish embassies and consulates, regulated by Government Regulation 110/2009 Regarding the 2009 European Parliament Elections, Polling Stations abroad.³

However, if an external voter has not used his or her voting right in advance abroad, he or she may vote in Finland on Election Day. As in other elections, the Ministry of Justice will send a voting card to all those whose address has been registered in the Population Register Centre.

4. Exercising electoral rights

4.1 National and regional elections

4.1.1 Voter registration

Registering on the electoral roll is automatic for all enfranchised voters. In practice, this means all Finnish citizens regardless of their domicile since non-nationals are not allowed to vote in any national elections.

A computer register of those entitled to vote, known as the Voting Register, is compiled by the Population Register Centre 46 days before Election Day. This register contains some of the voters' information (e.g. name, personal number, electoral district, municipality of residence, and polling station), which was in the Population Information System 51 days before Election Day. The register is thereafter publicly available in the local Magistrates. Subsequently, no later than 24 days before Election Day, the Ministry of Justice sends a voting card to all those who are entitled to vote. This card serves as a notice of their right to vote and includes information on the voting day and advance voting days, voting districts and polling stations as well as contact details of election authorities. The Voting Register is later used to print out electoral rolls for the polling stations on Election Day (Jääskeläinen 2010).

³ The legal basis for this is the Government Regulation 110/2009 regarding the European Parliament elections 2009 voting places abroad (Kiikeri 2010, 5).

If somebody considers that he or she has been excluded from the register on unfair grounds, or that the information it contains is incorrect, he or she can submit a claim for correction of the register to the local register office not later than sixteen days before Election Day. The local register office will then make a judgment on the claims not later than thirteen days before Election Day. Subsequently, the Voting Register becomes legally valid at noon twelve days before Election Day, after which it cannot be amended.

The same procedure for voter registration applies for all national elections and for Finnish expatriate citizens as well.

4.1.2 Casting the vote

Casting a vote can take place either in advance or on Election Day. In both cases, voting normally takes place at polling stations. Absentee voting through mail ballot, proxy voting or e-voting is not used. The same voting procedure applies for all national elections, that is, parliamentary and presidential elections.

*Voting in advance*⁴

Advance votes can be cast in any advance polling station. In Finland advance polling stations are normally post-offices and municipal offices, and there is at least one such station in each municipality. Abroad, advance voting may take place in Finnish embassies and consulates.

Advance voting begins on the eleventh day prior to polling day. It ends outside Finland on the eighth day, and in Finland on the 5th day, prior to polling day. On board a Finnish ship, the advance voting may, with the exception of the second round in the Presidential election, begin already on the eighteenth day prior to polling day.

Hospitals, prisons and certain other facilities serve as special polling stations, so that those who are incarcerated or being treated in such institutions may vote. Furthermore, voters whose ability to move or function is limited to the degree that they are unable to come to the advance polling station may vote in advance at home. In this case, an election official comes to their home to receive their vote. Any family caretakers of the person entitled to vote at home, living in the same household, also has the right to vote in this context.

At the advance polling station, the voter first shows an identity card to the election official who gives him or her a ballot where there is a list of those candidates running in the electoral district in question. The voter then folds the ballot so that the number he or she wrote cannot be seen, and presents it to the election official who stamps it. Subsequently, the voter seals the ballot in an envelope and signs a cover letter, which the election official then posts to the central election committee of the voter's municipality. There the central election committee opens the envelopes and separates the cover letters from the ballot envelopes. Without being opened, the envelopes containing the ballots are then sent to the constituency electoral committees, where they are counted.

⁴ Legal basis is the Election Act 714/1998, Chapter 5.

Voting on Election Day⁵

On Election Day the voter is only allowed to vote in his or her own voting district which has been determined in advance by the voting register. There is at least one polling station in every municipality, and the total number is approximately 2,500.

An electoral committee, consisting of five members, arranges voting at a polling station. A voter who wishes to cast a vote first has to show an identity card to the election board which checks in the voting register whether the voter is entitled to vote in that district and that he or she has not voted in advance. Then the board gives a ballot to the voter who then, in a polling booth, writes the number of the candidate he or she wants to vote for on the ballot. A list of candidates in the electoral district with all the candidates and their numbers is available in the polling booth and elsewhere at the polling station. Then, the ballot is folded so that the number cannot be seen, and presented to the election official who stamps it. Finally, the voter drops the stamped ballot into a ballot box.

4.1.3. Running as candidate

Parliamentary Elections⁶

Candidates may be nominated to run for parliament in two ways.

First, parties that have been entered into the party register kept by the Ministry of Justice may nominate a maximum of fourteen candidates in every electoral district. Or, if more than fourteen representatives are elected from the electoral district, the parties may nominate at most the number of candidates that it is possible to elect. Parties may also form electoral alliances. The number of candidates nominated by an alliance may not exceed the maximum number of candidates for a single party.

Second, constituency associations may nominate candidates. Such a constituency association can be established by at least one hundred people entitled to vote in the electoral district. Just as with parties, they may form joint lists containing at most fourteen candidates. Or, if more than fourteen representatives are elected from the district, at most the number of candidates that it is possible to elect.

A party or constituency association has to submit its list of candidates (candidate application) to the constituency electoral committee of the electoral district in which it intends to nominate candidates forty days before Election Day at the latest. The constituency electoral committee examines the candidate lists, paying particular attention to the eligibility of the candidates. It then confirms the nomination of candidates 31 days before Election Day. Subsequently, the committee compiles a master list of candidates including candidates of all parties, constituency associations and joint lists. These are enumerated in the master list, in an order drawn by lot. The master list includes the number (beginning with number 2), name, municipality of residence and title, profession or position of each candidate.

Presidential Elections⁷

⁵ Legal basis is the Election Act 714/1998, Chapter 6.

⁶ Legal basis is the Election Act 714/1998, Chapter 9.

A similar logic is followed in the nomination of candidates for presidential elections.

First, registered parties, from whose lists at least one representative was elected in the parliamentary elections preceding the presidential elections, may nominate candidates. Parties choose candidates according to their own respective rules and regulations. Second, constituency associations established by at least 20,000 people entitled to vote, may nominate candidates. The candidates enter as candidates for the whole country because the country forms one voting district in presidential elections.

A party or constituency association has to submit its list of candidates to the constituency electoral committee of the municipality in which it intends to nominate candidates 47 days before Election Day at the latest. Subsequently, the committee checks the applications and confirms the nomination of candidates 38 days before Election Day by compiling a list of candidates who are enumerated in an order drawn by lot. The list includes the number (beginning with number 2), name, municipality of residence and title, profession or position of each candidate (Jääskeläinen 2010, 17).

4.1.4. Special or assimilated representation for expatriate citizens?

Representation of citizens residing abroad is assimilated. In presidential elections, the whole country serves as one voting district. In parliamentary elections, the votes of citizens residing abroad are counted with the votes of their geographical voting district. As provided by the Election Act 714/1998, 18§, if the enfranchised person does not have a municipality of residence in Finland 51 days prior to the polling day, the municipality entered in the population register as referred to in the Municipality of Residence Act shall be entered in the voting register instead of the municipality of residence.

4.2 Local elections

4.2.1. Voter registration and casting the vote

The procedure for voter registration and casting the vote is the same as in national elections. No special provisions are provided for enfranchised non-Finnish nationals. Those Finnish nationals, who do not have residence in any Finnish municipality, are not allowed to vote.

4.2.2. Running as candidate

As in parliamentary and presidential elections, candidates may be nominated in two instances.

First, parties that are entered into the party register may nominate a number of candidates that equals the number of councillors to be elected multiplied by one and a half. For example if the number of councillors to be elected in the municipality is 27, the party may nominate 40 candidates (Jääskeläinen 2010). Parties may also form electoral alliances, but the number of candidates nominated by an alliance cannot exceed the number of candidates for a single party.

Second, candidates may be nominated by constituency associations established by at least ten people who are entitled to vote in the municipality in question. However,

⁷ Legal basis is the Election Act 714/1998, Chapter 10.

if the municipality, as determined by the Ministry of Justice, is particularly small, then three people may be enough to establish a constituency association. Like parties, constituency associations may also nominate a number of candidates equalling the number of councillors to be elected, multiplied by one and a half.

A party or constituency association then has to submit its list of candidates to the central election committee of the municipality in question, no later than 47 days before Election Day. The committee checks the lists of candidates, especially the eligibility of candidates and subsequently confirms the nomination of candidates 31 days before Election Day. The committee then compiles a master list of candidates in which the candidates of all parties, constituency associations and joint lists are enumerated in an order drawn by lot. The master list includes the number (beginning with number 2), name, title, profession or position of each candidate. The master list of candidates is displayed in the polling booths and at other locations (Jääskeläinen 2010, 19).

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