REPORT ON FRANCHISE AND ELECTORAL PARTICIPATION OF THIRD COUNTRY CITIZENS RESIDING IN THE EUROPEAN UNION AND OF EU CITIZENS RESIDING IN THIRD COUNTRIES

Electoral Rights and Participation of Third Country Citizens in their EU Country of Residence: a Comparative Overview

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OVERVIEW

- Map out electoral rights across EU Member States
- Identify additional restrictions on enfranchisement which do not apply to the default category of citizen residents
- Discuss the grounds for enfranchisement of selected categories of TCCs
- Examine electoral participation rates in local elections
- Formulate policy recommendations on the basis of key findings
Legal Context

• The power of member states to decide what electoral rights (if any) should be accorded to third country citizens who are residing on their territory is hardly constrained by International or European law.

- The EP has advocated the extension of the local franchise since 1996.
- Article 6 of the 1992 Council of Europe Convention on the Participation of Foreigners in Public Life (signed by 8 Member states and ratified by 5 only).

=> Electoral rights for third country citizens, eligible categories and the conditions for their enfranchisement vary greatly across Member States and types of elections.
Mapping Electoral rights across EU Member States

• **No electoral rights for TCCs**

12 Member States reserve electoral rights to their citizens only.

• **Voting rights: rare at national level, increasingly common at local level**

By contrast with the external enfranchisement of first country citizens, the granting of voting rights is extremely rare at national level (available selectively in PT and UK), relatively frequent for regional elections (DK, HU, PT, SK and UK) and increasingly common in local elections (16 Member States).

• **Candidacy rights: more restricted than those for voting**

With 2 countries enfranchising selected categories of third country citizens in national elections (UK and PT), 4 in regional elections (UK, PT, SE and DK) and 10 in local elections (DK, FI, SE, IE, EL, LU, NL, PT, SK, UK).

• **Selective enfranchisement**

3 Member States (PT, ES, UK) grant electoral rights only to special categories of third country citizens while 4 states (FI SE, DK, EL) offer facilitated access to selected categories.
Voting rights in local legislative elections (EU27 + Croatia)

- All TCCs enfranchised
- Selected categories of TCCs only
- All TCCs enfranchised AND privileged access for selected categories
- Not enfranchised
- Not in EU
Candidacy rights in local legislative elections (EU27 + Croatia)

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Restrictions which do not apply to citizen residents

• **Durational residency requirements**
  - Ranges from a minimum of 2 years in Finland, 3 years in Denmark and Sweden, and up to 5 years in Belgium, Luxembourg and the Netherlands. Varies between 3 to 5 years in Spain and Portugal according to terms of reciprocity agreement.

• **Legal status of residence**
  - ‘Permanent residence permit’ in Lithuania and Estonia: 5 years
  - ‘Ordinary residence’ in Ireland: 3 consecutive ‘tax’ years
  - Commonwealth citizens with ‘Indefinite Leave to Remain in the UK: 5 years

• **Registration Procedure (active or passive)**
  - In 9 Member States, identical registration procedure
  - In Belgium, voluntary registration and written oath to respect the Belgian Constitution and Laws and the ECHR
  - In Greece, active registration and submission of proof of residence status, passport and criminal certificate
Grounds for Selective Enfranchisement

- **Membership of an international association of states other than the EU:**
  - Nordic Union Citizens (Norway and Iceland) in Denmark, Finland and Sweden
  - Commonwealth citizens in the United Kingdom
  - Citizens of the Community of Portuguese Language Countries (CPLP) in Portugal (only applies to Brazil and Cape Verde)

- **Bilateral agreements applied on the basis of reciprocity**
  - Inactive provisions in Cyprus and the Czech Republic
  - Growing and eclectic list of countries in Spain and Portugal

- **Special ties based on linguistic or cultural affinities**
  - Irish citizens residing the UK, under the 1949 Ireland Act (although there is some degree of reciprocation)
  - Facilitated access for holders of a ‘omogenis’ I.D. in Greece
Electoral participation in local legislative elections

- Scarce data on electoral participation of TCCs, mainly because ballots are generally assimilated into the broader voting total.

- Participation rates in Swedish local elections

<table>
<thead>
<tr>
<th>Year of election</th>
<th>Total electorate</th>
<th>Registration/foreign residents</th>
<th>Turnout/foreign residents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Registered voters</td>
<td>General turnout</td>
<td>EU citizens</td>
</tr>
<tr>
<td>2010</td>
<td>7 368 986</td>
<td>81,60%</td>
<td>151 000</td>
</tr>
<tr>
<td>2006</td>
<td>7 098 000</td>
<td>79,40%</td>
<td>119 000</td>
</tr>
</tbody>
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The **Swedish case is particularly problematic** as Sweden pioneered the granting of voting rights to foreign residents in 1975 and requires comparatively low conditions (3 years of residence and passive mode of registration).

- In other countries where secondary data could be collected, turnout in local elections fluctuates considerably from a minimum of **10% in Luxembourg (2009)** to a maximum of **57% in Denmark (2009)**. In Estonia, reported participation rates of Russian citizens and stateless persons in the 2009 local elections were even higher (respectively 75 and 63%).
Policy Recommendations

• Converging toward a common approach:
Whilst harmonising residence based conditions is clearly beyond the scope of EU competence, the criteria regulating the acquisition of long-term residence status, as laid down in Council Directive 2003/109/EC, should be considered the maximum requirements for enfranchisement. In accordance with a 2003 recommendation of the Council of Europe, and current laws in Denmark, Ireland, Hungary, Finland and Sweden, a residence requirement of three years or less can be promoted as best practice.

• Increasing electoral participation:
Enhancing electoral turnout among third country citizens is important to strengthen the legitimacy of their inclusion and the effectiveness of democratic representation. Lowering registration barriers and encouraging information campaigns promoting the benefits of voting are likely to enhance electoral participation.