

EU Citizens Should Have Voting Rights in National Elections, But in Which Country?



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I will be happy if Philippe Cayla's and Catriona Seth's proposal for a European Citizens' Initiative (ECI) on national voting rights for EU citizens is successful. But I will not sign it myself. I agree that there is a serious democratic deficit in the current regulation of voting rights. It is contrary to the spirit of EU law if EU citizens who take up residence in another member state lose fundamental rights as a consequence of exercising their right of free movement. And it seems particularly perverse that they retain their rights to vote in local and European Parliament elections but can lose the more significant franchise in national elections. The question is: which country should be responsible for letting them vote and under which conditions?

Philippe Cayla and Catriona Seth argue that this should be the country of residence, where citizens pay their taxes and are most comprehensively affected by political decisions. I agree that all long-term residents, and not only EU migrants, should have access to the franchise for these reasons. However, it is not unfair to ask immigrants to apply for their host country's citizenship if they want to fully participate. This will not only provide them with all democratic rights but will also send a signal to the sedentary native citizens that these immigrants have a long-term commitment to their country of residence. After all, national parliaments make laws that affect not only current residents but also future generations. Of course, neither native citizens nor immigrants can be forced to stay for the rest of their lives. But citizenship is generally a life-long status that is neither automatically acquired nor automatically lost when moving to another country. And therefore, acquiring it through a public declaration of consent sends a signal of long-term commitment that residence alone cannot convey.

Let me emphasize that this is not an argument for citizenship tests that punish the less educated immigrants, nor an argument that immigrants must show exclusive loyalties towards their host country by abandoning their citizenship of origin. All immigrants should be offered opportunities to naturalise after they have become long-term residents – which in the EU means after five years – and dual citizenship should be broadly tolerated. Under

such conditions, why could EU citizens still claim national voting rights without applying first for citizenship?

One could object to my proposal that it is not realistic that European states will reform their citizenship laws along these lines. But is it really more realistic that they will waive the condition of naturalisation for one large group of migrants altogether? And what if they were forced to do so by some daring judgment of the Court of Justice of the European Union? Would member states then not react by raising even higher the hurdles for naturalisation, which would in turn mean that fewer migrants get access to EU citizenship in the first place?

If for these normative and pragmatic reasons voting rights in countries of immigration remain attached to citizenship status, what can we then do about the democratic deficit? The obvious answer is: make sure that EU citizens who move to another member state do not lose their voting rights in national elections in their countries of origin. In fact, most EU states do allow their expatriates to vote in national elections. The regulations are, however, very different. Ireland still does not grant an external franchise. The Greek constitution guarantees voting rights to Greeks living abroad, but the Greek parliament has never adopted the implementing legislation. Britain withdraws voting rights after fifteen years of residence outside the country. Italy allows those born abroad who have inherited their citizenship from Italian ancestors to vote in Italian elections but not those who have kept their residence in Italy and are merely temporarily absent on election day. Conversely, Denmark has a residence requirement for voting, but has successively extended the franchise to state employees, employees of private Danish companies, Danes working for international organisations, Danish students and others living abroad for health reasons as well as to their Danish spouses, as long as they are presumed to be only temporarily absent. By contrast, Belgium has mandatory voting and applies this duty even to Belgium citizens living abroad, although they are not forced to register as voters.

In its judgement in the 2010 [Rottmann case](#)¹ the Court of Justice of the EU has asserted that member states have to take EU law into account when a decision to withdraw nationality implies a loss of EU citizenship. Should

¹ See the EUDO CITIZENSHIP Forum Debate: Shaw, J. (ed.) (2011), 'Has the European Court of Justice Challenged Member State Sovereignty in Nationality Law?', *Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory Working Paper 2011/62*, Florence: European University Institute, available at <http://cadmus.eui.eu/handle/1814/19654>.

the same logic not also apply to a withdrawal of national voting rights in case of exercise of free movement rights?

The promoters of the ‘Let me vote’ ECI will object that long-term residents abroad are more strongly affected by the laws of their host country than by those of the state whose citizens they are. But voting rights cannot be determined by a principle of affected interests alone, or else the whole world should have a right to vote in the next US presidential election. We need instead a criterion of genuine ties between voters and the political community where they cast their vote. Migrants often maintain genuine ties to their country of origin while developing at the same time such ties to their country of residence. If they want to fully participate in the latter, they should be able to do so by applying for naturalisation. And if they no longer care about participating in the former, they should be free not to vote in homeland elections or also to renounce their citizenship.

Although there is a strong global trend to grant voting rights to expatriates, I do not think that all citizens who live abroad should have a right to vote. If we care about genuine ties, then those who have inherited their citizenship by birth abroad should not have a say in decisions about the future of a country where they have never lived and are unlikely to ever live. And the current Hungarian government’s policy to offer first dual citizenship and now also voting rights in national elections to ethnic Hungarian citizens of neighbouring countries is a clear example how external voting rights can be abused by nationalists in power.² However, second and third generations of immigrant origin as well as native ethnic minorities with neighbouring kin states can be excluded by limiting the external franchise to first generation migrants.

The case for external voting rights is particularly strong in the EU for three reasons. First, because it can be linked to the core of EU citizenship, which is the right of free movement; second, because it respects the principle that EU citizenship is derived from member state nationality rather than from residence; and third because it secures that free movers will not lose their indirect representation in EU legislation through the vote of their national government in the Council.

² See the EUDO CITIZENSHIP forum debate: Bauböck, R. (ed.) (2010), ‘Dual citizenship for transborder minorities? How to respond to the Hungarian-Slovak tit-for-tat’, *Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory Working Paper 2010/75*, Florence: European University Institute, available at <http://cadmus.eui.eu/handle/1814/14625>

I would therefore make a case for common European standards of access to national and EU citizenship for all immigrants as well as for common standards of external voting rights of EU citizens.

Why will I still be happy if the ‘Let me vote’ initiative succeeds in collecting 1 million signatures for national voting rights derived from residence? Because this would finally provide the Commission with a reason to address a serious democratic deficit and to open the debate on how to overcome it.

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