



Disenfranchisement of EU citizens

In some Member States (MS), citizens lose their electoral rights if they reside abroad. Conversely, MS do not generally provide any right to vote in national elections to non-nationals. Therefore, EU citizens resident in another MS often face exclusion from political life at national level in both their state of residence and their state of origin.

EU citizens' electoral rights under EU law

EU citizens residing in an MS different from their MS of nationality are entitled to vote and stand as candidates in elections to the European Parliament (EP) as well as in municipal elections, "under the same conditions as nationals of that state" ([Art. 22 TFEU](#) and [Art. 39, 40 EU Charter of Fundamental Rights](#)). In contrast, the Treaties provide no electoral rights for EU citizens in elections to national parliaments, leaving this question at the discretion of the MS.

MS' disenfranchisement rules

Most MS allow expatriate citizens to participate in national elections, however, there are big differences in registration and voting procedures for non-residents.

In other MS, citizens lose their electoral rights (disenfranchisement) once they move abroad (other than diplomats, soldiers, etc.). In **Ireland**, for example, voters need to have their "ordinary residence" in the constituency, and therefore voting rights are lost immediately after moving.

According to the **Danish** Constitution, voters need to be permanently resident on national territory in order to participate in national parliamentary elections. Some exceptions apply for Danish diplomats, employees of Danish companies, Danes working for international organisations, etc. Moreover, since 2003, all Danes resident abroad can notify their intention to return within two years and retain the right to vote during this period.

Other MS require citizens to be resident or registered on the electoral roll for a certain period of time before an election. In **Cyprus**, voters need to have resided there for at least six months before they can be entered on the electoral roll. An exception is made for voters

temporarily working abroad, students or those living permanently abroad for health reasons. In **Malta**, it is necessary to have resided there for at least six months during the 18 months preceding an election.

In **Germany**, the Federal Constitutional Court, in July 2012, [found](#) the provision enabling expatriates to vote in elections to the Bundestag only if they have lived in Germany for at least three months, to be unconstitutional because it violated the principle of universal suffrage. As a consequence a draft [amendment](#) of the Federal Elections Act is pending adoption by the Bundestag. It would establish that Germans residing permanently abroad are entitled to vote if they have lived in Germany, after reaching the age of 14, for at least three months within the past 25 years, or if they are familiar with the German political debate and affected by it.

In the **United Kingdom (UK)**, citizens lose their electoral rights in national parliamentary elections after having lived abroad for 15 years. However, expatriates regain their electoral rights after returning to the UK. There is an ongoing campaign to [extend voting rights](#) for British citizens resident abroad, including through [applications](#) to the European Court of Human Rights and before [UK courts](#). Appellants hope the latter will require a reference to the Court of Justice of the EU.

EU citizens' rights in national elections

In the 2006 case [Spain v UK](#), the Court of Justice confirmed that EU law does not preclude MS from granting electoral rights to EU citizens residing on their territories. However, the only example is between the UK and Ireland, under arrangements pre-dating both countries' EU membership. In the **UK**, Irish and, under [certain circumstances](#), Commonwealth citizens (including Maltese and Cypriot citizens) resident there can vote and stand as candidates in all elections. Based on the principle of reciprocity, British citizens residing in **Ireland** are entitled to participate in elections to the lower house of parliament (the Dáil). Moreover, the law allows for reciprocal rights to be granted to citizens of

another EU MS to participate in Dáil elections, if that MS correspondingly entitles Irish nationals to participate in national parliamentary elections.

Positions on disenfranchisement

Some commentators view such disenfranchisement as a violation of EU law, specifically the principle of non-discrimination on the grounds of nationality ([Art. 18 TFEU](#) and [Art. 21 Charter of Fundamental Rights](#)). Conversely, [others](#) do not consider this principle to be applicable, arguing that national elections do not fall under the scope of the Treaties. It has been argued alternatively that the disenfranchisement of EU citizens residing in another MS violates the freedom of movement and residence (Art. 19 TFEU and Art. 45 EU Charter) since it might discourage citizens to move to another MS. It is [suggested](#) that such a violation does not require statistical or other evidence and that the potential "chilling effect" on the decision to exercise the freedom of residence is sufficient.

Those defending disenfranchisement rules point to non-resident's lack of knowledge of the political reality in their home MS. They also argue that non-residents are not directly affected by acts of the legislature. Conversely, some stress the permanent link of nationality between a state and its nationals as well as the possibilities through modern communications to remain informed on politics in the home MS.

The Commission has stated on numerous occasions that it considers electoral rights at national level to be the sole competence of MS. However, recently Vice-President Viviane Reding stated in her [answer](#) to a [parliamentary question](#) from Andrew Duff (ALDE, UK) that EU citizens who are not entitled to vote or stand as candidates in either their MS of origin or in their MS of residence, are not represented in the Council and are thus excluded from participation in the democratic life of the EU.

The Parliamentary Assembly of the Council of Europe has also addressed the disenfranchisement issue several times. In its [Resolution 1459/2005](#) it states that, in order to avoid any conflict of loyalties, electoral rights in national elections should be attached to nationality. People with several nationalities should be allowed to choose in which country they wish to exercise their rights.

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Solutions proposed

Four main options have been [proposed](#) by experts, members of civil society and politicians to solve the problems surrounding disenfranchisement. Those looking at disenfranchisement as an issue affecting only certain MS simply propose abolishing such rules. Increased mobility and easier communications have already induced such a tendency.

Some see an alternative solution in a general right of long-term EU residents to vote in their MS of residence, regardless of whether they are disenfranchised in their home MS. This proposal is the subject of several petitions submitted to the EP [Committee on Petitions](#) (PETI) as well as of a European Citizens Initiative "[Let me vote!](#)". They claim such a new EU citizenship right could be included in the Treaties by means of the special legislative procedure foreseen in Article 25(2) TFEU, which requires a unanimous decision of the Council as well as the approval of all MS according to their constitutional requirements. According to a [2010 Eurobarometer](#), approximately 50% of citizens are in favour of allowing EU citizens to participate in national elections in their MS of residence whereas some 43% are against.

Some propose a combination of both options, with EU citizens choosing whether to vote in their MS of nationality or of residence. The Commission's [2012 public consultation](#) on EU citizenship shows that most citizens would in this case vote in their MS of residence.

A fourth approach is to facilitate the naturalisation of EU citizens in other MS. An argument made against this, however, is that since many MS do not allow dual nationality, the loss of one's own nationality in order to gain electoral rights in another MS would be a disproportionate cost.

The European Parliament

The lack of possibility for EU citizens disenfranchised in their home MS to participate in national parliamentary elections has been [highlighted](#) by the EP on several occasions. Recently it [called](#) on MS to implement the [Venice Commission's Code of Good Practice in Electoral Matters](#) (Council of Europe), including the abolition of disenfranchisement of expatriates in elections to national parliaments.