

**Electoral rights for foreign nationals:  
a comparative overview of regulations in 36 countries**

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**Abstract**

After balancing the arguments in favour and against voting rights for foreigners, the article reviews non-citizens' rights to vote and to stand as candidates in local, regional and national elections in 32 European and four non-European countries. Questions addressed are: When, if at all, were non-citizens given these rights for the first time in these countries? What are the conditions foreign nationals have to meet in addition to those of citizens of the respective country in order to be allowed to vote and be elected? Are these rights granted to citizens of certain foreign countries only? Are foreigners excluded from being elected into particular functions? And finally, with respect to countries excluding non-citizens from elections: Would the constitution have to be amended before non-citizens could be granted the right to vote?

## Introduction<sup>1</sup>

In this paper I would like to give an overview of regulations concerning the rights of foreign nationals<sup>2</sup> to vote, be elected and hold offices (incl. indirect election or appointment into public offices) in 36 states:

- *EU-countries*: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom
- *Prospective EU-member countries*: Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia
- *Other European countries*: Iceland, Liechtenstein, Norway, Russia, and Switzerland
- *Traditional immigration countries*: Australia, Canada, New Zealand, and the USA.

The main questions to be answered in the following are: Do foreign nationals who live (or only just stay) in these countries have the right to vote and stand for election at the local, regional and/or national level? Do these rights only accrue to citizens of certain countries? Do foreign nationals have to meet any conditions in addition to those of the respective country's own citizens in order to be granted these rights? When have they been granted these rights for the first time, when were these rights introduced? And for all those cases in which foreigners are excluded from electoral rights: Does the respective country's constitution contain any clauses which prohibit that foreign citizens are granted the right to vote and/or to be elected, which means that an amendment of the constitution (which normally requires a much broader political consensus and/or a more demanding procedure of adoption) would have to precede an extension of the right to vote? Before delving into the details of the listed countries' regulations, however, I would like to ask: Should foreigners be given electoral rights at all? Which arguments support and which speak against their inclusion in the electorate?

## Arguments in favour and against electoral rights for foreign nationals<sup>3</sup>

What are the arguments in favour of introducing electoral rights for foreign nationals? It is impossible to deal with all aspects of the question at hand in this article, especially because it also touches upon matters of how citizenship is defined and assigned. The only thing possible here is a short outline of the general argument in favour of granting foreigners the right to vote and be elected and a quick review of possible arguments against it. The case for introducing electoral rights for foreign nationals can be built on some basic principles of liberalism and democracy.<sup>4</sup> The starting point in this context is that no person should be subject to political decisions for longer periods of time without being able to take influence on them; and the most important way to influence political decisions in a democracy is the participation in elections (as a voter or also as a candidate). The only legitimate (but not necessarily imperative) criteria for the exclusion from electoral rights are:

- a) non-residence in the territory in which a political decision is made,<sup>5</sup>
- b) incapability to form a political opinion or to make political judgements (because of a mental handicap or because the person is too young),
- c) (certain) crimes committed in the past, which can be interpreted as proof of the fact that the respective person does not take into account the effects of his/her actions and decisions on other persons, which makes him/her unfit to participate in political decisions, and
- d) a stay in the territory which is too short yet (so that persons had no chance to make themselves acquainted with the political institutions, actors and topics in the respective territory) and/or which will most likely be only temporary in nature (which means that persons will not be subject to the consequences of their decisions).

None of these criteria justifies the exclusion of immigrants or foreign nationals from elections: They are not all, of course, mentally handicapped, minors or criminals, and the fact that they are immigrants and/or do not hold the country's citizenship does not make them incapable of forming a political opinion or of acting in a considerate manner. The condition that they should be able to become acquainted with politics in the respective

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<sup>1</sup> This paper is based on a German paper written for the first issue of the journal *Wiener Hefte - Migration und Integration in Theorie und Praxis (forthcoming)*, published by the Viennese Fund for Integration. Research for this German paper was carried out in October and November 2002. In some cases I also used information collected by Barbara Liegl (Institute of Conflict Research, Vienna, Austria) in 2000 which she kindly made available to me. The information collected on electoral rights in several countries (esp. prospective EU-member countries) was updated and completed for this English version of the paper.

<sup>2</sup> The terms "foreign nationals", "foreign citizens", "foreigners" and "non-citizens" are used interchangeably in this paper to designate citizens of some state other than the one they currently reside or stay in.

<sup>3</sup> In this short section, I rely heavily on the work of my colleague Rainer Bauböck; see esp. Bauböck (1994a and b, 2003). On arguments in favour and against electoral rights for non-citizens see also, e.g., Davy (1999), Day and Shaw (2002) and Shaw (2002). On the general question which rights should accrue to non-citizen residents, see Carens (2002).

<sup>4</sup> "Equality of membership and inclusiveness of rights are the two basic norms of democratic and liberal citizenship" (Bauböck 1994b, 207)

<sup>5</sup> Democracies have to be territorially bounded, even though certain political decisions in one territorial unit may have an influence on persons residing in another unit.

territory can be met by introducing minimum residence requirements (even though it can also be argued that sound political judgements do not depend on the duration of residence). And as long as they do not hold a residence permit or visa with limited renewability which only permits a temporary stay, their stay should be considered as indefinite, even though some of them will leave the country again.<sup>6</sup> In sum: not citizenship should be the relevant criterion for deciding who is granted electoral rights but *residence* in the respective territory; and the basic rule in this respect is “the longer one stays, the stronger one’s moral claims” (Carens 2002, 108).

But why should foreign residents be granted the right to vote when they have the option to get access to electoral rights by acquiring the respective country’s citizenship? The case for electoral rights for foreign nationals is indeed considerably weakened if a country makes the acquisition of citizenship very easy (entitlement to acquisition, short periods of residence required, no fees, few and easy-to-meet or no further conditions, no requirement to renounce previous nationality). However, especially first-generation immigrants may still have legitimate reasons not to naturalize in another country, e.g. because they would lose citizenship in their country of origin, because the would forfeit hereditary titles or the right to own land there, or because it would mean a serious break in the person’s identity. Permanently excluding people with such reasons from political decisions is problematic: in a world of international migration, assuming or even demanding that persons have interests in or identify with only one country and that they should be able to easily give up interests in and emotional attachments to other countries (and holding nationality of a country may be a matter of strong emotional attachment), is simply unrealistic.

A number of other reasons against electoral rights for foreign nationals are often brought forward. Let me just discuss four lines of argumentation:

- *Argument 1: By giving foreigners electoral rights, the boundary between citizens and non-citizens becomes blurred and citizenship is devalued because it is not tied to any substantial additional rights anymore that go beyond the set of rights already granted to foreign residents. Instead, naturalization should be encouraged so that immigrants can participate on a completely equal footing. Electoral rights should therefore be reserved for citizens and with respect to the rights attached to them there should be a clear dividing line between the statuses of citizen and foreigner.*

The argument can easily be turned around: Citizenship will be devalued on a much larger scale if foreigners have to acquire it for instrumental reasons because they simply want to enjoy the rights which have been withheld from them as foreign nationals. If, in contrast, naturalization is facilitated and encouraged by other methods than upholding discriminatory rules for foreign nationals, the acquisition of citizenship will much more likely take place if the person concerned strongly identifies with the new state and wants to express this by becoming its citizen. The acquisition of citizenship should, of course, be encouraged because only then foreign nationals can enjoy complete equality. But foreign first-generation immigrants should not be forced to acquire citizenship because automatic naturalization would seriously limit a person’s right to make autonomous decisions; and they should not be induced to naturalize simply for the reasons of acquiring rights not otherwise available to them. Finally it has to be added that arguing in favour of the equalization of rights by propagating the upholding of discriminatory rules for a certain group of persons is a rather perverse logic.

- *Argument 2: Electoral rights for foreign nationals may lead to conflicts of loyalty that can be dangerous for the political system. In addition, conflicts from the home country may be introduced in the political institutions of the host country and/or foreign nationals may be induced or forced by their home countries to use their electoral rights in a specific way that goes against the interests of the host country.*

First of all, this argument does not apply to local elections because conflicts of loyalty can hardly be imagined with respect to decisions at the municipal level – even if foreign nationals hold an office at that level. Furthermore, this argument could also be used against dual nationals – and dual nationals even exist in countries which are anxious to allow applicants for naturalization to keep their previous nationality: dual nationality is produced on a large scale when children are born in countries with *ius soli* to parents who are citizens of some other country with a nationality code based on *ius sanguinis*. Finally, it can be argued that foreign countries have few to no means to influence their citizens to use their voting rights in a very specific way; and even if they had, the specific citizenship of the person to be influenced does not really make a difference because foreign states could also use these means to influence their former citizens. In sum it is obvious that objections of this kind are based on a rather antiquated concept of loyalty. A single and unequivocal loyalty, expressed by the fact that the person is (only) a citizen of the respective country, does seem to be justifiable, however, when it comes to the right of holding one of the central offices at the national level (member of parliament, president, minister, etc.) because persons in these offices should be expected to represent the interests of the respective country only – and in cases of conflict also against other countries.

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<sup>6</sup> A strict interpretation of this rule would also exclude citizens who plan to leave the country to live abroad for some time or forever from exercising their electoral rights.

- *Argument 3: Granting foreign nationals electoral rights would give them unjustified privileges that the host country's citizens do not enjoy because the latter cannot vote in more than one election.*

The right to participate in elections to comparable representative bodies in more than one country is the result of a special situation international migrants find themselves in because they have, as already mentioned above, interests in and ties to more than one country. The right to vote in more than one country simply does not make sense for most citizens of a country who do not and have never held another citizenship. Being allowed to vote twice would only be problematic if persons were allowed to vote in one and the same election twice, which, however, is not the case in this constellation.

- *Argument 4: Electoral rights for foreigners at the local level are acceptable, but they should be reserved for citizens at the national level.*

As should have become clear from the presentation so far, I see little reasons for restricting the right to vote for foreign citizens to the local level because they are affected by political decisions at the national level in the same way – or even more strongly – than by ones at the local level. As already mentioned above, however, there may be good reasons for requiring candidates for the highest offices in the state to hold its citizenship (and maybe even *only* its citizenship).

One final argument in favour of electoral rights for foreigners shall be mentioned here: By including the last big disenfranchised group of persons, namely foreign residents, into the electorate, the chance of winning a majority in elections on the basis of a campaign in which persons without electoral rights are used as scapegoats is reduced: they may form a sizeable pool of voters that can tip the balance with respect to which political group gets a majority.

The arguments in favour of electoral rights should only serve as an introduction, though. The main purpose in the rest of this paper is to give an overview of regulations concerning the right to vote and be elected in 36 European and non-European countries.

### **Electoral rights at the local level**

#### **he Council of Europe's Convention on the Participation of Foreigners in Public Life at the Local Level**

The only international convention dealing with electoral rights of foreign nationals is the Council of Europe's "Convention on the Participation of Foreigners in Public Life at Local Level".<sup>7</sup> It was opened for signature in February 1992 and went into force in May 1997 after having been ratified by four countries. The convention has three parts. Chapter A, which is the only one signatory states cannot opt out from, demands freedom of speech, assembly and association for foreign nationals. In addition, it calls for signatories' efforts to involve foreign residents in public inquiries, planning procedures and other processes of consultation on local matters. Chapter B commits signatory states to encourage and facilitate the establishment of consultative bodies for foreign citizens at the local level. Finally, chapter C calls for the granting of electoral rights for foreigners in local authority elections after five years of lawful and habitual residence preceding the elections. However, it is left up to the signatory states whether or not to grant foreign nationals only the right to vote or also the right to be elected.

Until now only nine states have signed the Convention and only six have ratified it.<sup>8</sup> Italy, which is among the six countries that already ratified the Convention, declared that it will not apply the rules concerning electoral rights contained in chapter C. Three more states have limited the application of the Convention to its mainland territories: Denmark does not apply it in the Faroe Islands and Greenland, Norway does not apply it on the Svalbard Islands, and the Netherlands restrict the Convention's application to its territories in Europe. In addition, in the Netherlands foreign diplomatic and consular personnel and their families are not covered by the Convention. Only Finland has signed the Convention without any reservations.

The Convention has in no case led to an extension of electoral rights to foreign nationals: as will be shown below (see section 0), all signatory states already had implemented the required rules (Netherlands) or even more liberal rules concerning the minimum residence required (Denmark, Finland, Norway, Sweden) in effect at the time of signing the Convention.

<sup>7</sup> The Convention, an explanatory report, a list of signatory states and of their reservations can be found under <http://conventions.coe.int/Treaty/EN/WhatYouWant.asp?NT=144&CM=8&DF=19/11/02>.

<sup>8</sup> Denmark, Finland, Italy, the Netherlands, Norway, Sweden, the Czech Republic, the United Kingdom and Cyprus have signed the convention, but the latter three countries have not ratified it yet.

### Electoral rights for EU-citizens resident in another member state<sup>9</sup>

The Treaty of Maastricht granted all EU-citizens with residence in another member state the right to vote and run for office in elections at the local level.<sup>10</sup> This right was substantiated further by a Council Directive in 1994.<sup>11</sup> The fact that this matter was regulated in a directive and not a directly applicable regulation means that there may be differences in the way its rules are implemented in each member state. According to this directive the above mentioned electoral rights accrue for “elections by direct universal suffrage to appoint the members of the representative council and, where appropriate, under the laws of each Member State, the head and members of the executive of a basic local government unit” (Art 2 par 2 lit b). The concrete basic local government unit for each country is then listed in the annex. Due to differences in the territorial political structure as well as the responsibilities and authorities of basic local government units in each country, the scope and significance of electoral rights at the local level also vary considerably. Germany and Austria were anxious not to have municipalities that are also federal states or provinces (*Bundesländer*) defined as basic local government units: In the city states Bremen and Hamburg, in the very urbanized federal state Berlin and in the city of Vienna, foreign EU-citizens were only granted the right to participate in elections to representative bodies below the state/provincial parliament (*Landtage*). On the other hand, however, Germany is among a group of states including Denmark, Ireland, Sweden and the United Kingdom, in which foreign EU-citizens are given the right to vote and be candidates in elections to representative bodies at higher levels (district, borough, province or region); in the United Kingdom, EU-citizens were even granted electoral rights in elections to the regional parliaments in Wales, Scotland and Northern Ireland.

The general rule laid down by the directive is that foreign EU-citizens shall be eligible to vote and stand for elections under the same conditions as citizens of the respective state (Art 3 lit b). However, the directive allows member states to make certain exceptions and to ask for certain conditions before the right to vote and/or the right to be elected is granted, which leaves member states considerable room in implementing the directive.<sup>12</sup> The access to electoral rights for foreign EU-citizens and their scope are therefore not regulated in a uniform way in each member state (for details see Table 1):

- Foreign EU-nationals may be asked to make a formal declaration or be even required to present an attestation by the competent authorities of their home member state in cases of doubt that they have not lost the right to stand as a candidate in their country of origin (Art 5 par 2, Art 9 par 2 lit a and b).<sup>13</sup> The majority of member states has in fact made use of this possibility: Belgium, three German federal states, five Austrian provinces, Greece, Portugal and Spain require that candidates present a formal declaration or an attestation by the competent authorities of their home country. Eight German federal states and Luxembourg always only demand a formal declaration by the candidate, whereas France, Italy and the Austrian province Styria in all cases require an official attestation. No proof whatsoever concerning the right to stand as a candidate in the country of origin is required in Denmark, Finland, Ireland, three Austrian provinces, Sweden and in the United Kingdom.
- Member states may reserve “the office of elected head, deputy or member of the governing college of the executive of a basic local government unit” as well as their temporary or interim substitutions for their own nationals (Art 5 par 3).

<sup>9</sup> I cannot deal here with the electoral rights of EU-citizens at elections to the European Parliament, which they can also make use of when living in a member state other than their own; see on this [http://www.europarl.eu.int/factsheets/2\\_4\\_0\\_en.htm](http://www.europarl.eu.int/factsheets/2_4_0_en.htm) and Commission of the European Communities (2000).

<sup>10</sup> See Art 19 par 1 (ex Art 8b par 1) of the Treaty establishing the European Communities, [http://europa.eu.int/eur-lex/de/treaties/dat/ec\\_cons\\_treaty\\_de.pdf](http://europa.eu.int/eur-lex/de/treaties/dat/ec_cons_treaty_de.pdf). Third-country nationals living in one of the member states do not have this right, and even though matters of immigration and integration of third-country nationals have now moved to the first pillar of policy-making within the European Union, electoral rights of third-country nationals are not foreseen in the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents, COM(2001) 127, 13 March 2001.

<sup>11</sup> Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of 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 (Official Journal L 368 , 31/12/1994 P. 0038 - 0047); amended by the Council Directive 96/30/EC of 13 May 1996 (Official Journal L 122 , 22/05/1996 P. 0014 – 0014); see [http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31994L0080&model=g\\_uicheti](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31994L0080&model=g_uicheti).

<sup>12</sup> All member states have now implemented the directive with Belgium the last country to do so in 1999 after it was sentenced by the European Court of Justice because of failing to fulfil obligations contained in the directive.

<sup>13</sup> In Greece a similar declaration is required before the right to vote is granted. Proceedings concerning a failure to fulfil obligations laid down by the directive were pending on this issue in 2002; see Commission of the European Communities (2002b, 8).

However, exclusions from – directly or indirectly elected or appointed – offices of this kind seem to exist only in about half of all member states: Belgium, the German federal states Bavaria and Saxony, France, Greece, Italy, Luxembourg and Austria exclude foreign EU-citizens from being elected or appointed mayor and in some cases also from holding certain other offices. In all other member states no exclusions of foreign EU-citizens from certain offices seem to exist.

- Furthermore, member states may exclude elected foreign EU-citizens from the designation of delegates who can vote in a parliamentary assembly and from the election of the members of that assembly (Art 5 par 4). This rule is tailored to France where local councils take part in the election of members of the French Senate. France has even included a restriction of this kind in its constitution.<sup>14</sup>

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<sup>14</sup> Art 88-3 of the constitution of 1958.

**Table 1: Electoral rights of EU-citizens resident in another member state at the local level (see explanatory notes below)**

|                | Right to vote  |   | Entry in the electoral register   |  | Eligibility / right to be candidate   |  |   | Other formalized participation  |   |
|----------------|--|---|---|--|---|--|---|---|---|
|                | Representative body and political level  | Exclusion   | Application necessary   | Conditions   | Exclusions from which offices   | Conditions of registration   |   | Right to participate  | No right to participate   |
|                |  |   |   |  |   | Eligible in CoO  | Other conditions  |   |   |
| <b>Austria</b> | 8 of 9 provinces: municipal council ( <i>Gemeinderat</i> );<br>W: urban district council ( <i>Bezirksrat</i> );<br>Graz (additional): urban district council ;<br>B, K, OÖ, S, T (exception: Innsbruck),<br>V: mayor;<br>Levels: municipalities ( <i>Gemeinden</i> ), districts ( <i>Bezirke</i> ) in Vienna | W: municipal council = parliament of the province ( <i>Gemeinderat</i> / <i>Landtag</i> ) | K, OÖ., W, Graz: no, automatic;<br>Other provinces: yes, only foreign EU-citizens;<br>T, V: Compulsory voting if registered | T (general rules): 1 year residence in municipality, if stay is obviously only temporary | <i>Direct</i> : mayor (sometimes elected indirectly);<br>W: <i>Gemeinderat</i> ;<br><i>Indirect</i> : K, NÖ, OÖ, town Salzburg, T, V: Head of municipality ( <i>Gemeindevorstand</i> );<br>St: deputy mayor | B, K, S, T, V: Declaration, in case of doubt attestation by competent authority in CoO required;<br>St: attestation by competent authority in CoO required | —   | B, K, OÖ, S, T: local non-binding referendum ( <i>Volkss-Bürgerbefragung</i> );<br>B, K, OÖ, S: local binding referendum ( <i>Volksabstimmung / -entscheid</i> );<br>B, K, S: petition ( <i>Volksbegehren / -initiative</i> ) | B: referendum on the mayor's removal from office;<br>V, W: local non-binding and binding referendum, petition |
| <b>Belgium</b> | Municipal council ( <i>conseil communal / gemeenteraad / Gemeinderat</i> );<br>Level: <i>commune / gemeente / Gemeinde</i>   | —   | Yes, only foreign EU-citizens;<br>Compulsory voting if registered   | —  | <i>Direct</i> : no exclusions;<br><i>Indirect</i> : mayor, alderman's office (until 2006)   | Declaration, in case of doubt attestation by competent authority in CoO required   | Declaration required that no office is held abroad that leads to incompatibility in Belgium | Local referendum (non-binding)  | —   |
| <b>Denmark</b> | Municipal council, county council ( <i>amtsråd</i> );<br>Levels: <i>amts-, Københavns-, Frederiksberg-, primaerkommune</i>   | —   | No, automatic   | —  | <i>Direct</i> : no exclusions;<br><i>Indirect</i> : no exclusion known  | No proof required  | —   | Local referendum (non-binding)  | —   |
| <b>Finland</b> | Municipal council ( <i>Kunnanvaltuusto</i> );<br>Levels: <i>kunta, kommun, kommun på Åland</i>   | —   | No, automatic   | —  | <i>Direct</i> : no exclusions;<br><i>Indirect</i> : no exclusions   | No proof required  | —   | Local referendum (non-binding), Petition  | —   |

|                | Right to vote   |   | Entry in the electoral register   |   | Eligibility / right to be candidate   |  |  | Other formalized participation   |  |
|----------------|---|---|---|---|---|--|--|--|--|
|                | Representative body and political level   | Exclusion   | Application necessary   | Conditions  | Exclusions from which offices   | Conditions of registration   |  | Right to participate   | No right to participate  |
|                |   |   |   |   |   | Eligible in CoO  | Other conditions   |  |  |
| <b>France</b>  | Municipal council ( <i>Conseil municipal</i> ), (municipal) district council;<br>Levels: <i>commune, arrondissements dans les villes déterminées par la législation interne, section de commune</i>   | —   | Yes, like own citizens  | General rules: 6 months residence in municipality or 5 years registered in the register of municipal direct taxes | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> mayor and deputy mayor;<br><i>In addition:</i> no participation of foreign councillors in appointment of senators   | Attestation by competent authority in CoO required   | —  | No information available   | No information available   |
| <b>Germany</b> | Var. councils ( <i>Räte, Tage, Versammlungen</i> ) and representatives ( <i>mayor, district administrator - Landrat</i> ) of the in county towns, town boroughs, counties, municipalities, town-/municipal- / parish districts, parishes ( <i>kreisfreie Städte, (Stadt)Kreise, Gemeinden, Stadt- / Gemeinde- Ortsbezirke, Ortschaften</i> ); Hamburg, Berlin: district assembly ( <i>Bezirksversammlung</i> ); Bremen: town council ( <i>Stadtgemeinde</i> ) | Berlin, Bremen, Hamburg: parliament of the federal state ( <i>Landtag</i> ) | Bavaria, Saxony: yes, only foreign EU-citizens; All other federal states: no, automatic | —   | <i>Direct:</i> Berlin, Bremen, Hamburg: <i>Landtag</i> ; Bavaria, Saxony: Mayor, <i>Landrat</i> ,<br><br><i>Indirect:</i> Bavaria, Saxony: deputy mayor, deputy <i>Landrat</i> , (deputy) town councillor ( <i>Beigeordnete</i> ) | 11 of 16 federal states require a declaration, an attestation by competent authority in CoO is required only in cases of doubt | —  | All federal states except Hamburg: Non-binding referendum ( <i>Bürger- / Volksbegehren</i> ), binding referendum ( <i>Bürger- / Volksentscheid</i> ) | Hamburg: Non-binding referendum ( <i>Bürger- / Volksbegehren</i> ), binding referendum ( <i>Bürger- / Volksentscheid</i> ) |
| <b>Greece</b>  | Municipal council, mayor  | —   | Yes, only foreign EU-citizens; Compulsory voting if                                     | General rules: 10 years residence in municipality; Foreign EU-  | <i>Direct:</i> mayor;<br><i>Indirect:</i> dep. mayor, (dep.) president of municipal   | Declaration, in case of doubt attestation by competent authority in CoO  | Foreign EU-citizens: Declaration required that no office is held | No local referenda, petitions, or the like exist   | —  |

|                | Right to vote  |           | Entry in the electoral register |   | Eligibility / right to be candidate   |  |  | Other formalized participation |                         |
|----------------|--|-----------|---------------------------------|---|---|--|--|--------------------------------|-------------------------|
|                | Representative body and political level  | Exclusion | Application necessary           | Conditions  | Exclusions from which offices   | Conditions of registration                         |  | Right to participate           | No right to participate |
|                |  |           |                                 |   |   | Eligible in CoO                                    | Other conditions   |                                |                         |
|                |  |           | registered                      | citizens: declaration required that person has right to vote in CoO | council, municipal secretary, president of committee or member of its board, (dep.) president of governing board, member of exec. committee of regional councils, municipal unions or foundations | required   | abroad that leads to incompatibility in Greece; General rule: no candidacy in other municipality in Greece or abroad |                                |                         |
| <b>Ireland</b> | County- / urban district council, borough- / county borough corporation, town commissioners;<br>Levels: county, urban district, borough, county borough, town                        | —         | No, automatic                   | —   | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> no exclusions known   | No proof required                                  | —  | Local referendum               | —                       |
| <b>Italy</b>   | Municipal council ( <i>consiglio comunale</i> ), local advisory council ( <i>consigli circoscrizionali del luogo di residenza</i> ), mayor;<br>Levels: <i>comune, circoscrizione</i> | —         | Yes, only foreign EU-citizens   | —   | <i>Direct:</i> mayor;<br><i>Indirect:</i> deputy mayor  | Attestation by competent authority in CoO required | —  | Local referendum (non-binding) | —                       |

|                    | Right to vote  |           | Entry in the electoral register                                |   | Eligibility / right to be candidate   |  |  | Other formalized participation           |                         |
|--------------------|--|-----------|--|---|---|--|--|--|-------------------------|
|                    | Representative body and political level  | Exclusion | Application necessary  | Conditions  | Exclusions from which offices   | Conditions of registration   |  | Right to participate                     | No right to participate |
|                    |  |           |  |   |   | Eligible in CoO  | Other conditions   |  |                         |
| <b>Luxembourg</b>  | Municipal council ( <i>conseil communal</i> );<br>Level: <i>Commune</i>  | —         | Yes, only foreign EU-citizens; Compulsory voting if registered | Foreign EU-citizens: 6 years residence in Luxembourg in the past 7 years; declaration required that person has right to vote in CoO | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> mayor, alderman's office;<br><i>In addition:</i> list of candidates must contain at least 50% of citizens of Luxembourg | Declaration required   | Foreign EU-citizens: 12 years residence in Luxembourg in the past 15 years, 6 months residence prior to election in municipality | Local referendum (?)                     | Local referendum (?)    |
| <b>Netherlands</b> | Municipal council ( <i>gemeenteraad</i> );<br>Levels: <i>Gemeente, Deelgemeente</i>                                    | —         | No, automatic  | —   | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> no exclusions known   | In case of doubt attestation by competent authority in CoO required              | —  | Local referendum (non-binding)           | —                       |
| <b>Portugal</b>    | Municipal council ( <i>junta de freguesia</i> );<br>Levels: <i>município, freguesia</i>                                | —         | Yes, only foreign EU-citizens                                  | Declaration required that person has right to vote in CoO   | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> no exclusions known   | Declaration, in case of doubt attestation by competent authority in CoO required | —  | Local referendum (binding), Petition (?) | —                       |
| <b>Spain</b>       | Town council ( <i>ayuntamiento</i> );<br>Levels: <i>municipio, entidad de ámbito territorial inferior al municipal</i> | —         | Yes, only foreign EU-citizens                                  | —   | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> no exclusions known   | Declaration, in case of doubt attestation by competent authority in CoO required | —  | Local referendum (non-binding) (?)       | —                       |
| <b>Sweden</b>      | Municipal assembly, county council;<br>Levels: <i>kommuner, landsting</i>  | —         | No, automatic  | —   | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> no exclusions known   | No proof required  | —  | Local referendum (non-binding)           | —                       |

|                       | Right to vote  |           | Entry in the electoral register |            | Eligibility / right to be candidate                                   |                            |  | Other formalized participation |                         |
|-----------------------|--|-----------|---------------------------------|------------|---|----------------------------|--|--------------------------------|-------------------------|
|                       | Representative body and political level  | Exclusion | Application necessary           | Conditions | Exclusions from which offices   | Conditions of registration |  | Right to participate           | No right to participate |
|                       |  |           |                                 |            |   | Eligible in CoO            | Other conditions   |                                |                         |
| <b>United Kingdom</b> | England: parish-, county-, and district council;<br>London: borough-, common council (ward);<br>Northern Ireland: district council, Assembly of N.I.;<br>Wales: community-, county-, county borough- and district council, National Assembly;<br>Scotland: regional- and district council, Scottish Parliament | —         | Yes, like own citizens          | —          | <i>Direct:</i> no exclusions;<br><i>Indirect:</i> no exclusions known | No proof required          | General rule: close ties to area of council: persons with right to vote at present and in future | Local referendum (binding)     | —                       |

**Note:** *CoO* = Country of Origin; *Conditions of registration – other conditions*: only conditions that solely apply to foreign nationals or which are relevant for them only are mentioned in this column, formalities (e.g. indication of name, nationality, place of residence or electoral district in CoO, etc.) are left out here; *Direct*: offices to which direct elections by whole constituency are held and which foreign nationals cannot hold; *Indirect* = offices to which no direct elections by whole constituency are held, but for which an indirect election or appointment by directly elected representative body takes place, which cannot be held by foreign nationals; *Acronyms for Austrian provinces*: B = Burgenland, K = Carinthia, NÖ = Lower Austria, OÖ = Upper Austria, S = Salzburg, St = Styria, T = Tyrol, V = Vorarlberg, W = Vienna;

**Sources:** *All countries*: <http://europa.eu.int/scadplus/citizens/de/at/001930.htm> and linked pages, Commission of the European Communities (2002b);  
*Austria*: Municipal Electoral Rules and Municipal Statutes of the Austrian provinces to be found (in German) under <http://www.ris.bka.gv.at/>;  
*Belgium*: <http://mibz.fgov.be/pd/pdd/dedd00.htm>;  
*Denmark*: <http://users.skynet.be/suffrage-universel/dkvo.htm>;  
*Finland*: Finnish Local Government Act (<http://www.kuntaliitto.fi/english/law.htm>); Kaleva (1999);  
*Germany*: von Wersebe (2000), Zuleeg (2001);  
*Ireland*: <http://www.viron.ie/electindex.html>;  
*Netherlands*: Groenendijk (2001);  
*Portugal*: <http://www.acime.gov.pt/VotoE.pdf>;  
*Spain*: Tenerife News on 11.09.2002 (<http://www.tenews.com/local/page01.php3?page=6>), [http://www.ine.es/en/censoe/electmun03/ciud\\_ue\\_ele0503\\_en.htm](http://www.ine.es/en/censoe/electmun03/ciud_ue_ele0503_en.htm);  
*Sweden*: The Swedish Elections Act (1997: 157) (<http://justitie.regeringen.se/inenglish/pdf/electionsact.pdf>), Local Government Act ([http://justitie.regeringen.se/propositionerm/ds/pdf/ds98\\_26e.pdf](http://justitie.regeringen.se/propositionerm/ds/pdf/ds98_26e.pdf));  
*United Kingdom*: Davy (2001, 850ff).

- Without direct reference to a person's citizenship but clearly targeted at foreign EU-nationals is the regulation that comparable offices held abroad may lead to incompatibility in the same way as offices held in the member state of residence (Art 6 par 2); and candidates may be required to state in a formal declaration that s/he does not hold an office which is incompatible (Art 9 par 2 lit d).  
Only Belgium and Greece touch upon the issue of incompatibility in their national regulations: potential candidates in both countries must state in a formal declaration that they do not hold an incompatible office abroad.
- Member states may require voters to express their will to make use of their right to vote, but they may also register them automatically on the electoral roll (Art 7 par 1 and 3). However, voters may only be required to register once and not once before every election (Art 8 par 3).  
In six Austrian provinces, Belgium, two German federal states (Bavaria, Saxony), Greece, Italy, Luxembourg, Portugal and Spain the need to register before the right to vote can be exercised only applies to foreign EU-nationals. France and the United Kingdom, in contrast, also ask their own citizens to register on the electoral roll. In all other countries, federal states and provinces, voters are registered automatically. Compulsory voting exists only in four countries in which an application is necessary for an entry in the electoral register, namely in Belgium, Greece, Luxembourg and in two Austrian provinces (Tyrol, Vorarlberg).
- Finally, member states in which more than 20% of the resident population at voting age are foreign EU-nationals may make electoral rights dependent on a certain minimum duration of residence: for the right to vote the required minimum residence may not be longer than the term for which the representative council of the municipality is elected, for the right to be a candidate it may be twice the council's term (Art 12 par 1 lit a and b). Belgium was given the right to limit the right to vote in certain municipalities (Art 12 par 2). In addition, these states may pass rules concerning the composition of lists of candidates (Art 12 par 1 lit c). In the preamble these exceptions are justified by arguing that "citizenship of the Union is intended to enable citizens of the Union to integrate better in their host country" and that "any polarization between lists of national and non-national candidates" has to be avoided. For Belgium, specific features and balances linked to the three official languages and a territorial division into regions and communities are given as reasons for the possible exceptions with respect to the right to vote.  
Until now, these exceptions have only become effective in Luxembourg where the share of foreign nationals among the resident population at voting age was 29% in 1996 and 32-34% in 1999.<sup>15</sup> Luxembourg therefore requires foreign EU-nationals who wish to register on the electoral roll to be resident in Luxembourg for at least six years in the past seven years preceding the elections. In order to be granted the right to stand as a candidate, they even have to give proof of 12 years of residence in the past 15 years preceding the elections. In addition, lists of candidates may only contain a maximum of 50% of persons who are not citizens of Luxembourg.  
The rules in other member states also contain certain requirements concerning some minimum duration of residence; however, these requirements apply to all voters, regardless of their citizenship, and concern the minimum residence in the respective municipality: The right to vote (which is also the precondition for the right to be a candidate) is dependent on a residence of six months in France, 12 months (in case the stay is "obviously only temporary") in the Austrian province Tyrol and even ten years in Greece.  
Even though requirements other than the ones listed are prohibited, Greece made the right to vote of foreign EU-nationals dependent on basic knowledge of the Greek language as well as on two years of residence in Greece. However, after intervention by the European Commission, Greece had to change the respective regulations.<sup>16</sup>  
It has to be mentioned, finally, that – as far as information was available – most member states allow foreign EU-nationals also to take part in other existing formalized forms of participation, like binding or non-binding referenda or petitions at the local level. These rights are granted even though they cannot be derived directly from the above mentioned Council Directive. Exceptions concerning the granting of these rights exist in some German federal states and some Austrian provinces (see Table 1).

### **National Regulations concerning electoral rights for foreign nationals at the local level**

Turning now to the general national regulations in our 36 countries, we find that the granting of electoral rights on the local level is becoming more and more the rule rather than just being the exception: in 20 countries, foreign nationals do have the right to vote and quite often also the right to be a candidate, and they will get these rights soon in two more countries. However, for a number of reasons to be described below, in quite a few countries only a small proportion of the foreign population can actually make use of these rights. In essence, three basic versions of granting foreign nationals the electoral rights can be distinguished with some states at

<sup>15</sup> See Commission of the European Communities (2002b, 9).

<sup>16</sup> Commission of the European Communities (2002b, 7); see also <http://europa.eu.int/scadplus/citizens/de/el/001930.htm>.

times making use of or combining more than one of these versions, which happens rather frequently (see Table 2):

1) **Electoral rights only in certain regions (provinces, federal states) or municipalities:** Generally fewest foreign nationals can accrue the right to vote and run for office at the local level if these rights are not granted on the whole territory of a state but only in certain parts of it. In principle, this will only be possible in countries in which lower units of government can at least to some degree decide autonomously over who is allowed to vote and be a candidate, which, again, presupposes a substantial degree of devolution of powers to lower levels of government. There are four countries in our sample, in which only certain regions (provinces, federal states) or municipalities introduced electoral rights for non-citizens, namely Switzerland (electoral rights in three cantons)<sup>17</sup>, Australia (electoral rights in three states), the United States (electoral rights in seven municipalities) and – only since very recently – Austria (electoral rights in one province). However, in all of these regions or municipalities further restrictions apply:

- In Switzerland, municipal electoral rights for non-citizens in the cantons Appenzell Außerrhoden, Jura and Neuenburg require a minimum residence of one to ten years (in the municipality, the canton, and/or Switzerland) and in the canton Neuenburg also that the person holds a permanent residence permit, which again can only be granted after five to ten years of residence (depending on the foreigner's country of citizenship). In Appenzell Außerrhoden, however, electoral rights are not granted in all municipalities: cantonal law only gives them the possibility to do so. And finally, it has to be mentioned that apart from the canton Jura foreign nationals are only granted the right to vote but not the right to be a candidate in local elections.
- Foreign nationals other than certain British subjects (see point 2) in the Australian states Tasmania and Victoria only have the right to register as voters, to vote and to be candidates in local elections if they are the owners or ratepaying occupiers of property or if they are nominated as representative of a corporation owning or occupying property located in the respective area or ward. It can be assumed that only a very small number of foreign persons will be able to benefit from these rules. The same rules are effective in South Australia. In addition, all foreign residents in this state also have the right to apply for inclusion in the local councils electoral roll; they cannot, however, run for office because being a candidate requires Australian citizenship.
- In the United States, foreign nationals may participate in School Board elections in New York City and Chicago, whereas they have electoral rights in all local elections in five towns in Maryland. Attempts were made in various other towns (esp. in Massachusetts) in the 1990s to introduce electoral rights for non-citizens. However, these attempts failed in most cases because the state parliament refused to pass a law which would have made such an extension of electoral rights to foreigners possible in the first place.<sup>18</sup> The United States' federal constitution, however, does not seem to be an obstacle for granting foreigners the right to vote and be candidates which can be derived from the fact that they were even allowed to vote in presidential elections in some states until the 1920s (see Hajduk 2002).
- Finally, in Austria the city of Vienna introduced electoral rights for non-EU citizens only just recently in December 2002. The right to vote and to be a candidate was limited to elections to urban district councils (*Bezirksräte*) though and was not extended to elections to the municipal council of Vienna (*Gemeinderat*), which is at the same time Vienna's provincial government. And there are further restrictions: electoral rights only accrue to non-EU citizens with at least five years of residence, and they cannot be appointed head of an urban district (*Bezirksvorsteher*), his/her deputy or member of the urban district council's building board.

It has to be added, however, that it is far from clear whether these new regional regulations concerning voting rights for non-EU nationals will ever become effective: The conservative party in Vienna, the ÖVP, has announced that it will contest the newly passed law at the Constitutional Court because the Austrian constitution reserves electoral rights for Austrian citizens. The ruling party in Vienna, the social-democratic SPÖ, has argued against this objection on the basis of the legal opinion of a renowned constitutional lawyer that the restriction of the right to vote to Austrian citizens only applies to elections to general representative bodies in the sense of the constitution. The urban district councils (*Bezirksräte*), however, mainly do not have sovereign powers and should therefore not be interpreted as general representative bodies.

<sup>17</sup> Only about 1% of Switzerland's foreign resident population lives in these three cantons.

<sup>18</sup> See, for example, Hajduk (2002), Royles (1998), McNaught (1999) and <http://users.skynet.be/suffrage-universel/usvoalma.htm>.

**Table 2: Electoral rights of foreign nationals at the local level: general national regulations (see explanatory notes below)**

|   | Rules in force since   | Right to vote in elections to which representative body / Political level   | Right to vote: conditions  |   |  | Enrolment: application required? | Eligibility? If yes: conditions  |
|---|--|---|--|---|--|----------------------------------|--|
|   |  |   | For citizens of  | Minimum residence   | Other conditions   |                                  |  |
| <b>EU-countries: general rules for citizens from non-EU/EEA-countries</b> |  |   |  |   |  |                                  |  |
| <b>Austria</b>  | 2002 (but: law will be contested before Constitutional Court soon)         | Only in Vienna: urban district councils ( <i>Bezirksräte</i> ), but not municipal council/provincial parliament ( <i>Gemeinderat / Landtag</i> )                  | All countries  | 5 years   | Uninterrupted legal residence  | No information available         | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : non-EU citizens cannot be head of urban district ( <i>Bezirksvorsteher</i> ), his/her deputy, member of building board ( <i>Bauausschuss</i> ) |
| <b>Denmark</b>  | <i>a</i> : 1977<br><i>b</i> : 1981   | Municipal council, county council (amtsråd);<br>Levels: <i>Amts-</i> , <i>Københavns -</i> , <i>Frederiksberg -</i> , <i>Primaerkommune</i>                       | <i>a</i> : Nordic countries;<br><i>b</i> : other countries   | <i>a</i> : no (before 1995: see <i>b</i> )<br><i>b</i> : 3 years in Denmark | Entry in population register / legal residence   | No, automatic                    | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : no exclusions known  |
| <b>Finland</b>  | <i>a</i> : 1981;<br><i>b</i> : 1991  | Municipal council ( <i>Kunnanvaltuusto</i> );<br>Levels: <i>kunta</i> , <i>kommun</i> , <i>kommun på Åland</i>  | <i>a</i> : Nordic countries;<br><i>b</i> : other countries   | <i>a</i> : no;<br><i>b</i> : 2 years in Finland                             | Entry in population register / legal residence   | No, automatic                    | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : no exclusions  |
| <b>Ireland</b>  | <i>Vote</i> : 1963;<br><i>Eligibility</i> : 1974                           | County- and urban district council, borough- and county borough corporation, town commissioners;<br>Levels: county, urban district, borough, county borough, town | All countries  | No (before 1985: 6 months)  | Usual residence  | No, automatic                    | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : no exclusions known  |
| <b>Netherlands</b>  | 1985   | Municipal council ( <i>gemeenteraad</i> )<br>Levels: <i>Gemeente</i> , <i>Deelgemeente</i>  | All countries  | 5 years in the Netherlands  | Uninterrupted legal residence (before 1997: legal residence)   | No, automatic                    | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : no exclusions known  |
| <b>Portugal</b>   | <i>a</i> : 1971;<br><i>b</i> : 1982;<br><i>c</i> : 1997<br><i>d</i> : 1997 | Municipal council ( <i>junta de freguesia</i> )<br>Levels: <i>município</i> , <i>freguesia</i>  | <i>a</i> : Brazil;<br><i>b</i> : Cape Verde;<br><i>c</i> : Peru, Uruguay;<br><i>d</i> : Argentina, Chile, Estonia, Israel, Norway, Venezuela | <i>a + b</i> : 2 years in Portugal;<br><i>c + d</i> : 3 years in Portugal;  | General: legal residence;<br><i>b</i> : countries with Portuguese as official language if reciprocity;<br><i>c and d</i> : reciprocity | Yes, same rules as for citizens  | <i>Direct</i> : only citizens of <i>a</i> , <i>b</i> and <i>c</i> ;<br>conditions: 4 years residence in Portugal;<br><i>Indirect</i> : no exclusions for eligible persons known                        |

|  | Rules in force since                                      | Right to vote in elections to which representative body / Political level   | Right to vote: conditions   |   |   | Enrolment: application required? | Eligibility? If yes: conditions  |
|--|---|---|---|---|---|----------------------------------|--|
|  |   |   | For citizens of   | Minimum residence   | Other conditions  |                                  |  |
| <b>Spain</b>                           | 1985  | Town council ( <i>ayuntamiento</i> );<br>Levels: <i>municipio, entidad de ámbito territorial inferior al municipal</i>  | Norway (since 1990)   | No  | Reciprocity; usual (legal) residence / entry in population register   | Yes, only foreign nationals      | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : no exclusions  |
| <b>Sweden</b>                          | 1975  | Municipal assembly ( <i>Kommunfullmäktige</i> ), county council ( <i>Landstingsfullmäktige</i> );<br>Levels: <i>kommune, landsting</i>  | <i>a</i> : Iceland, Norway;<br><i>b</i> : other countries   | <i>a</i> : no (before 1997: see <i>b</i> );<br><i>b</i> : 3 years in Sweden | <i>General</i> : entry in population register;<br><i>b</i> : uninterrupted legal residence  | No, automatic                    | <i>Direct</i> : see right to vote;<br><i>Indirect</i> : no exclusions known  |
| <b>United Kingdom</b>                  | 1972 (local government established)                       | England: parish-, county-, district council;<br>London: borough-, common council;<br>Northern Ireland: district council;<br>Wales: community-, county-, county borough-, district council;<br>Scotland: regional-, district council | Commonwealth countries (ca. 50 countries), Ireland  | No  | Temporary (legal) residence is sufficient   | Yes, same rules as for citizens  | <i>Direct</i> : close ties to area of council: persons with right to vote at present and in future;<br><i>Indirect</i> : no exclusions known |
| <b>Prospective EU-member countries</b> |   |   |   |   |   |                                  |  |
| <b>Czech Republic</b>                  | 2001 (but will only have effect after joining EU in 2004) | Municipal assemblies;<br>Level: municipality  | Countries to which electoral rights have been granted in international treaty: presently no treaties; will apply to EU-countries after joining EU | None (?); but: see also column "Other conditions"                           | Registered as permanent resident in municipality (PRM required? min. duration of residence required for PRM: 8 years)                         | No, automatic                    | <i>Direct</i> : see right to vote; <i>Indirect</i> : no information available  |
| <b>Estonia</b>                         | 1996  | Local government council;<br>Levels: city, rural municipality   | All countries   | 5 years in municipality   | Permanent residence permit (min. duration of residence required for PRM: 3 years); a temporary permit was sufficient for elections 1996, 1999 | No, automatic                    | <i>Direct, Indirect</i> : no, only citizens of Estonia   |

|                                 | Rules in force since  | Right to vote in elections to which representative body / Political level                  | Right to vote: conditions                                |   |   | Enrolment: application required? | Eligibility? If yes: conditions  |
|---------------------------------|---|--|--|---|---|----------------------------------|--|
|                                 |   |  | For citizens of  | Minimum residence   | Other conditions  |                                  |  |
| <b>Hungary</b>                  | 1990  | Municipal council, mayor, county council<br>Levels: municipality, county                   | All countries  | No  | Immigration or settlement permit (both: durable residence)  | No, automatic                    | <i>Direct, Indirect:</i> no, only Hungarian citizens   |
| <b>Lithuania</b>                | Constitution changed in 2002, will come into effect in 2004 | Municipal council;<br>Level: municipality  | All countries  | None (?); but: see also column "Other conditions"                             | Permanent residence (PRM required? min. duration of residence required for PRM: 5 years)          | No information available         | <i>Direct, Indirect:</i> no, legislation still needs to be changed to meet EU-requirements                         |
| <b>Malta</b>                    | 1993  | Local council, regional council;<br>Levels: locality, region                               | United Kingdom   | 6 months residence in Malta in past 18 months (same as for citizens of Malta) | Citizens of member countries of Council of Europe under condition of reciprocity; legal residence | Yes, same rules as for citizens  | <i>Direct:</i> see right to vote;<br><i>Indirect:</i> no exclusions for eligible persons                           |
| <b>Slovakia</b>                 | 2002  | Municipal council, mayor;<br>Level: municipality   | All countries  | None (?); but: see also column "Other conditions"                             | Permanent residence (PRM required? min. duration of residence required for PRM: 10 years)         | No information available         | <i>Direct:</i> see right to vote;<br><i>Indirect:</i> no information available                                     |
| <b>Slovenia</b>                 | 2002  | Municipal council, mayor;<br>Level: municipality   | All countries  | None (?); but: see also column "Other conditions"                             | Permanent residence (PRM required? minimum duration of residence required for PRM: 8 years)       | No information available         | <i>Direct:</i> foreigners can become local councillor, but not mayor;<br><i>Indirect:</i> no information available |
| <b>Other European countries</b> |   |  |  |   |   |                                  |  |
| <b>Iceland</b>                  | <i>a:</i> 1986<br><i>b:</i> 2002                            | Municipal council ( <i>sveitarstjórn</i> );<br>Level: Municipality ( <i>sveitarfélag</i> ) | <i>a:</i> Nordic countries;<br><i>b:</i> other countries | <i>a:</i> 3 years in Iceland;<br><i>b:</i> 5 years in Iceland                 | Uninterrupted legal residence / entry in population register                                      | No, automatic                    | <i>Direct:</i> see right to vote;<br><i>Indirect:</i> no exclusions  |

|   | Rules in force since   | Right to vote in elections to which representative body / Political level  | Right to vote: conditions   |   |  | Enrolment: application required?   | Eligibility? If yes: conditions  |
|---|--|--|---|---|--|--|--|
|   |  |  | For citizens of   | Minimum residence   | Other conditions   |  |  |
| <b>Norway</b>                           | <i>a:</i> 1978;<br><i>b:</i> 1983                            | Municipal council ( <i>kommunerådet</i> ), county council ( <i>fylkeskommunerådet</i> );<br>Levels: municipality ( <i>kommune</i> ), county ( <i>fylkeskommune</i> )   | <i>a:</i> Nordic countries;<br><i>b:</i> other countries  | 3 years in Norway   | Uninterrupted legal residence / entry in population register   | No, automatic  | <i>Direct:</i> see right to vote;<br><i>Indirect:</i> no exclusions known  |
| <b>Switzerland</b>                      | No information available                                     | Municipal council or assembly ( <i>Generalrat, Gemeindeversammlung</i> );<br><i>Level:</i> municipality ( <i>Gemeinde</i> ) in cantons:<br><i>a:</i> Jura;<br><i>b:</i> Neuenburg;<br><i>c:</i> Appenzell Ausserrhoden: <i>can</i> be granted                        | <i>a to c:</i> all countries  | <i>a:</i> 10 years in canton;<br><i>b:</i> 1 year in municipality;<br><i>c:</i> 10 years in Switzerland and 5 years in canton | <i>a:</i> legal residence;<br><i>b:</i> permanent residence permit (can be granted after 5-10 years residence);<br><i>c:</i> legal residence                                       | No, automatic  | <i>a: Direct:</i> see right to vote; <i>Indirect:</i> no exclusions known;<br><i>b and c: Direct, Indirect:</i> no |
| <b>Classic countries of immigration</b> |  |  |   |   |  |  |  |
| <b>Australia</b>                        | <i>a:</i> 1948 (1984);<br><i>b:</i> no information available | Local council, mayor (not always elected directly)<br>Levels: municipalities (ward, area; in WA: city, town, shire) in the following states:<br><i>a:</i> all states and territories;<br><i>b:</i> South Australia, Tasmania, Victoria;<br><i>c:</i> South Australia | <i>a:</i> United Kingdom (British subjects);<br><i>b:</i> all countries;<br><i>c:</i> all countries | 1 month in municipality (general rule)  | <i>a:</i> on electoral roll on or before 26.01.1984 (exact date varies);<br><i>b:</i> non-resident owners and occupiers of property within ward/area;<br><i>c:</i> legal residence | <i>a)</i> yes, but enrolment (except SA) and voting (except SA, WA, TAS) is compulsory;<br><i>b)</i> yes, same rules as for citizens;<br><i>c)</i> yes | <i>Direct, Indirect:</i> SA: only Australian citizens can hold office; other states: no information available      |
| <b>New Zealand</b>                      | <i>a:</i> always;<br><i>b:</i> 1975                          | Local council (City council, District council, Community board, Regional council);<br>Levels: City, District, Region   | <i>a:</i> United Kingdom;<br><i>b:</i> all countries  | <i>a:</i> no;<br><i>b:</i> 1 year in New Zealand  | <i>a:</i> registered voter before 1975 (until 2002);<br><i>b:</i> Permanent residence (may be granted after 0-2 years of residence)  | Yes, but compulsory enrolment for all eligible persons   | <i>a: Direct, Indirect:</i> see right to vote (but only until end of 2002);<br><i>b: Direct, Indirect:</i> no      |
| <b>USA</b>                              | <i>a:</i> 1992 and after;<br><i>b:</i> always;               | <i>a:</i> Barnesville, Chevy Chase, Martin's Additions, Somerset, Takoma Park (all: Maryland): Local councils, School boards, etc.<br><i>b:</i> New York City, Chicago: School boards  | <i>a and b:</i> all countries   | <i>a and b:</i> no information available  | <i>a and b:</i> no information available   | Yes, same rules as for citizens  | <i>a and b:</i> no information available   |

**Notes:** This table also contains information on election to regional representative bodies if these bodies are defined as part of local self-government in the respective country. *Nordic countries* = Denmark, Finland, Iceland, Norway, Sweden. *Reciprocity*: Electoral rights only for citizens of countries who grant one's own citizens living in these countries electoral rights. *PRM* = permanent residence permit. *Acronyms for Australian states*: NSW = New South Wales, SA = South Australia, TAS = Tasmania, VIC = Victoria.

- Sources:** *EU-countries:* see Table 1;  
*Prospective EU-member countries:* Commission of the European Communities (2002a);  
*Various countries:* Council of Europe (1999, 2000), *constitutions:* <http://www.oefre.unibe.ch/law/icl/>;  
*Austria:* König (2003);  
*Belgium:* Migration News Sheet (MNS) (various issues 1999-2002);  
*Denmark:* Schnedl (1995), <http://www.kl.dk/data/825711/Komst-eng.pdf>;  
*Finland:* Weninger (1994);  
*Portugal:* constitution ([http://www.parlamento.pt/ingles/cons\\_leg/crp\\_ing/index.html](http://www.parlamento.pt/ingles/cons_leg/crp_ing/index.html)); Barbara Liegl (see footnote 1);  
*Spain:* [http://www.ine.es/en/censoe/elecmun03/ciud\\_nor\\_ele0503\\_en.htm](http://www.ine.es/en/censoe/elecmun03/ciud_nor_ele0503_en.htm), MNS (various issues 2000-2001);  
*Czech Republic:* Human Rights Commissioner of the Government of the Czech Republic (2002); <http://www.citymela.com/cz/residence.htm>;  
[http://www.mvcr.cz/reforma/zakony/an\\_muni.html](http://www.mvcr.cz/reforma/zakony/an_muni.html);  
*Estonia:* [http://www.vm.ee/eng/kat\\_172/2880.html](http://www.vm.ee/eng/kat_172/2880.html); [http://www.mig.ee/eng/abiks/load\\_alal.html](http://www.mig.ee/eng/abiks/load_alal.html);  
*Hungary:* Act LX11 of 1994 on the Election of Members of Municipal Governments and Mayors ([http://www.aceproject.org/main/samples/vr/vrx\\_1002.pdf](http://www.aceproject.org/main/samples/vr/vrx_1002.pdf));  
*Lithuania:* East European Constitutional Review, Vol. 11, No. 3 (<http://www.law.nyu.edu/eecr/vol11num3/constitutionwatch/lithuania.html>), MNS 6/2002;  
[http://www.migracija.lt/MDEN/al\\_law.htm](http://www.migracija.lt/MDEN/al_law.htm);  
*Malta:* Local Councils Act ([http://www.justice.gov.mt/laws\\_documents/english/leg/vol\\_10/chapt363.pdf](http://www.justice.gov.mt/laws_documents/english/leg/vol_10/chapt363.pdf)), <http://www.localcouncils.gov.mt/>;  
*Slovakia:* Government of the Slovak Republic (2002); [http://slovakembassy-us.org/wwwanglicky/temporary\\_stay\\_permit.doc](http://slovakembassy-us.org/wwwanglicky/temporary_stay_permit.doc); Nemeč, Bercik, and Kuklis (2000);  
*Slovenia:* East European Constitutional Review, Vol. 11, No. 3 (<http://www.law.nyu.edu/eecr/vol11num3/constitutionwatch/slovenia.html>),  
<http://www.usembassy.si/Consular/consacs3.htm>;  
*Iceland:* Local Government Elections Act (<http://kosningar2002.is/interpro/fel/fel.nsf/pages/electionsact>), Barbara Liegl (see footnote 1);  
*Norway:* CBSS-Commissioner (1996, 2000), <http://www.ub.uio.no/ujur/ulovdata/lov-19850301-003-eng.pdf>, private email communication Lars Østby (Statistics Norway);  
*Switzerland:* Slominski (2001, 753f), [http://e-gov.admin.ch/vote/vote\\_electronique/Beilage3.pdf](http://e-gov.admin.ch/vote/vote_electronique/Beilage3.pdf);  
*Australia:* <http://www.eca.gov.au/systems/index.htm>; State and Territory Electoral Offices (see list of websites at <http://www.eca.gov.au/about/contact.htm>); Zappalà and Castles (2001, 58ff); information provided by email by the New South Wales and South Australian State Electoral Office;  
*New Zealand:* <http://www.elections.org.nz/elections>; <http://www.immigration.govt.nz/>; information provided by Paul Harris (Chief Executive, Electoral Commission, Wellington);  
*USA:* Aleinikoff (2001, 151f), Hajduk (2002), McNaught (1999).  
*Countries without local electoral rights for foreign nationals:*  
*Various countries:* Council of Europe (1999, 2000), BBC-News (2002), *constitutions:* <http://www.oefre.unibe.ch/law/icl/>;  
*Belgium, France, Germany:* Davy (2001);  
*France:* MNS 4/2000, 4/2002;  
*Italy:* Information provided by Raffaele Miele;  
*Cyprus:* [http://www.kypros.org/PIO/cygov/elections/municipale\\_1996.htm](http://www.kypros.org/PIO/cygov/elections/municipale_1996.htm);  
*Latvia, Poland, Russia* CBSS-Commissioner (1996, 2000);  
*Liechtenstein:* constitution ([http://www.gesetze.li/r2000/html/get\\_lgbl\\_from\\_lr.xsql?LGBl=1921015](http://www.gesetze.li/r2000/html/get_lgbl_from_lr.xsql?LGBl=1921015)); Gemeindegesetz  
([http://www.gesetze.li/r2000/html/get\\_lgbl\\_from\\_lr.xsql?LGBl=1996076](http://www.gesetze.li/r2000/html/get_lgbl_from_lr.xsql?LGBl=1996076));  
*Romania:* Mogosanu (1999);  
*Canada:* information provided by Yngve Lithman (University of Bergen, IMER International Migration and Ethnic Relations).

- 2) **Electoral rights only for citizens of certain countries:** A second option is to grant the right to vote and be elected only to nationals of some countries. Countries in our sample basically use four criteria to select those countries to whose citizens electoral rights are granted: a) colonial links in the past, b) reciprocity, c) membership in the same alliance or confederation of states, and d) cultural similarities. In many cases, more than one of these criteria are either used in a combined form in the general rules concerning electoral rights for non-citizens or used for more than one set of rules applying to different groups of foreign nationals:
- a) *Colonial links in the past:* In this model, citizens of former colonial powers or, vice versa, of former colonies keep their electoral rights even after the respective countries have become independent. Three states in our sample make use of this model:
- In the United Kingdom, citizens of each of the around 50 Commonwealth states and Ireland have the right to vote and be elected without any further conditions (even in case of only temporary residence or stay) at the local, regional and national level.<sup>19</sup>
  - On the basis of the Citizenship Act of 1948, British subjects enjoyed the same rights as Australian citizens. Since 1984 British subjects are only allowed to vote and run for office at the local and regional level and to vote at the national level if they had been on the electoral role immediately before the 26<sup>th</sup> of January 1984.<sup>20</sup>
  - The regulations in the third country, New Zealand, are similar: British subjects, which had been registered as voters already before 1975, were allowed to vote and be elected at all levels (incl. the national). At the beginning of this year, however, British subjects registered before 1975 have lost their special rights so that from now on the general rules concerning electoral rights for non-citizens apply to them as well (see point 3 below).
- b) *Reciprocity:* A different option is to grant electoral rights only to citizens of states which grant its own citizens who reside on their territory the same rights. In general, this special treatment is laid down in an intergovernmental treaty.
- *General rules of reciprocity* exist in Portugal and Spain: In Portugal, citizens of countries with which treaties have been signed have the right to vote in local elections after three years and can be elected after five years of residence; in contrast, no residence requirement applies in Spain. Besides EU-citizens,<sup>21</sup> the nationals of Argentina, Chile, Estonia, Israel, Norway, Peru, Uruguay and Venezuela benefit from this rule of reciprocity in Portugal, whereas in Spain only Norwegian citizens can enjoy electoral rights at the local level.<sup>22</sup> However, whereas Norwegian citizens with the right to vote in local elections in Spain may also be candidates for public offices, this right only exists for citizens of Peru and Uruguay in Portugal. A general rule of reciprocity is also in effect in the Czech Republic since 2001. Due to the fact, however, that no treaties have been concluded yet with other countries on this issue, the legal rules have so far no effect for foreign residents in the Czech Republic. However, after joining the EU, citizens from other member states will be granted local electoral rights on the basis of this rule of reciprocity.
  - Portugal also applies *specifically restricted rules of reciprocity*: citizens of countries with Portuguese as official language and with which respective treaties were signed can already vote in local elections after two (instead of three) years and be candidates after three (instead of five) years of residence. At present, citizens of Brazil and Cape Verde can vote and be elected on the basis of these rules in Portugal. Finally, Malta restricts the possibility of granting foreign residents the right to vote and be elected in local elections under conditions of reciprocity to citizens of states which are member of the Council of Europe; if such reciprocity is established, foreign residents will get electoral rights after six months of residence. Currently, only British citizens can benefit from these rules.

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<sup>19</sup> Irish nationals make up around 17% and *Commonwealth-Citizens* around 35% of all resident foreigners in the United Kingdom; calculated on the basis of Council of Europe (2001).

<sup>20</sup> The number of British subjects who have the right to vote on the basis of this rule was estimated at 200.000 to one million persons (Zappalà and Castles 2001, 64).

<sup>21</sup> The EU-regulations can be interpreted as a form of reciprocity as well. The laws translating the relevant EU-directive in national law in Portugal and Spain even refer directly to this reciprocity.

<sup>22</sup> In 2000 and 2001 the law in Spain contained local electoral rights for foreign residents from all countries. After winning an absolute majority in the 2000 elections, however, the Partido Popular re-enacted the pre-2000 rule that electoral rights are granted only to foreign nationals of certain countries on the basis of reciprocity.

- c) *Membership in the same alliance or confederation of states*: Common membership in the same alliance or confederation of states as a criterion for granting foreign nationals special rights can be interpreted as a special form of reciprocity. This model is, of course, also the one underlying the rights of EU-citizens in other member states of the Union (see section 0). A second example are the above described rules in effect in Malta because they explicitly restrict reciprocity to member states of the Council of Europe. Also based on membership in the same alliance of states (the basis of which, however, is a common colonial history) are the far-reaching rights for Commonwealth-citizens in the United Kingdom described under point a). The fourth example of common membership in an alliance as the basis for preferential treatment of foreign nationals can be found in the member countries of the Nordic Council (Denmark, Finland, Iceland, Norway, Sweden): citizens of other member countries of the Nordic Council at some point in time were the only ones to enjoy the right to vote and be candidates in local elections in other member states (the exception being Sweden where foreign nationals from all countries were granted electoral rights already at the time these rights were introduced in 1975). However, all Nordic countries have meanwhile introduced electoral rights for foreigners from all countries; the last country to do so was Iceland in 2002. Nevertheless, Nordic citizens still have more far-reaching rights in four of five countries: in contrast to foreign nationals from other countries, no minimum residence is required for foreign Nordic citizens in Denmark, Finland and Sweden in order to accrue electoral rights (general rules: three years in Denmark and Sweden, two years in Finland); and in Iceland the minimum duration of residence is reduced from five to three years for nationals of other Nordic states.
- d) *Cultural similarities*: The most obvious criteria for cultural similarity as a basis for special political rights is a common language. As already mentioned above, privileges of this kind in the form of a reduced minimum duration of residence can be found in Portugal for citizens of states with Portuguese as official language (under the condition of reciprocity).
- 3) **Electoral rights which are neither restricted to certain territories nor to citizens of specific countries**: A general right to vote for foreigners at the local level, which is neither restricted to certain territories nor to citizens of certain countries exists in Denmark, Finland, Ireland, the Netherlands, Sweden, Estonia, Hungary, Lithuania (to become effective probably in 2004), the Slovak Republic, Slovenia, Iceland, Norway and New Zealand. However, the right to vote is made dependent in all countries on certain conditions which aim at persons with a certain consolidation of residence:
- Seven of the above mentioned 13 countries explicitly require a minimum duration of residence between one (New Zealand) and five years (Netherlands, Estonia, Iceland - general rules); in Denmark, Finland and Sweden, though, the minimum residence of two and three years respectively does not apply to citizens of other Nordic states.
  - A second condition in this context is the condition to hold a specific type of *residence permit* (e.g. a permanent residence permit). The access to electoral rights is thereby influenced by the formal conditions to be met in order to be granted this permit and by the actual practice of the authorities in issuing such permits. And due to the fact that applicants quite regularly have to have a certain minimum duration of residence, the condition to be holding such a permit may introduce additional indirect waiting periods before electoral rights accrue. At any rate, a permanent residence permit is a condition for electoral rights in Estonia (requires at least three years of residence) and New Zealand (can be granted after two years of residence, for certain groups of immigrants though already immediately on entry). The rules in Lithuania, Slovakia and Slovenia contain the requirement of “permanent residence”. However, because the respective laws were only passed recently, because they have not been applied yet in practice (in two countries they will only become effective in 2004) and because in some cases they still require additional legislation to be applicable in practice, it was not possible to verify whether this condition actually means that non-citizens have to hold a permanent residence permit. If this was the case, the indirect waiting periods (neglecting special groups of immigrants like family members of citizens) for electoral rights would be considerably long: five years in Lithuania, eight years in the Czech Republic and Slovenia, and ten years in Slovakia! In Hungary, finally, foreign nationals do not need a permanent residence permit – a permit which can in principle be converted into a permanent one is sufficient. All of the 13 countries mentioned above, however, require a *usual, legal and at least non-transitional residence*, which can be taken for granted when the respective person is registered in the population register.

- Not all of these countries, however, grant non-citizens the right to be candidates in local elections. Estonia, Hungary and New Zealand exclude foreign nationals from eligibility. The same holds true for Lithuania where the law still needs to be changed in order to meet EU-requirements. Foreigners can become members of a local council in Slovenia but they cannot be elected mayor. If they do meet all other criteria (esp. residence requirements), foreign citizens in the Nordic countries, Ireland, the Netherlands and in Slovakia can be candidates under the same conditions as nationals; as far as it was possible to verify this, they are also not excluded from any specific offices (e.g. mayor, member of the executive board, or the like) in these countries.

When we now, finally, look at all those countries that do not grant foreign residents or certain groups of them electoral rights at the local level, it seems that in most cases there are constitutional obstacles for the extension of voting rights:

- In the constitutions of Germany,<sup>23</sup> France, Italy, Bulgaria, Liechtenstein, Latvia, Poland, Romania and Russia only citizens are explicitly mentioned with respect to elections at all political levels<sup>24</sup> or the right to vote is only awarded to them without any direct reference to the specific level at which elections take place.<sup>25</sup> All of the mentioned East European countries will also have to change their constitutions to make the introduction of electoral rights for foreign EU-citizens after their accession to the European Union possible.<sup>26</sup>
- In contrast, electoral rights for non-citizens at the local level could be introduced in seven other countries without the need to amend the federal constitution beforehand. Examples are the United States and Switzerland where the introduction of non-citizens' right to vote and be elected is, if at all, only prohibited by laws or constitutional clauses at the state- or cantonal level. Due to the fact that the United Kingdom does not have a written constitution, electoral rights for foreign nationals other than those already in existence for Commonwealth-, Irish and EU-citizens could be introduced easily there. Australia's constitution does not contain any clauses with respect to which group of persons makes up the electorate. Luxembourg's constitution contains the clause that communal councils are elected by the "inhabitants" of a commune, the exact conditions who is allowed to vote and be elected, though, shall be fixed by law (Art 107 par 2). The constitution of Cyprus does grant voting rights only to citizens (Art 31); however, the next article allows the following clause: "Nothing in this Part contained shall preclude the Republic from regulating by law any matter relating to aliens in accordance with International Law." The constitution in Belgium (Art 8 par 4), finally, explicitly allows for the introduction of electoral rights of non-citizens – not only at the local level – by law. Slovenia's constitution contains a similar clause (Art 43 par 3), which was already made use of in 2002.<sup>27</sup>

#### **Electoral rights at the regional level**

We now come to electoral rights at the regional level, as which we define in this context any level of government between the lowest local and the highest national/federal level. In some countries non-citizens do have electoral rights at the regional level, which, however, is defined as part of the system of local government. This includes:

- the electoral rights for EU-citizens in Germany's counties with their county assemblies (*Kreistage, Kreisversammlungen*) and district administrators (*Landräte*), whereas all foreigners are excluded from the right to vote and be elected in elections at the much more important level of the federal states (*Bundesländer*);

<sup>23</sup> In 1990, Germany's Federal Constitutional Court ruled that the right to vote introduced in two German federal states (Schleswig-Holstein: right to vote for citizens of certain countries after eight years of residence at the local and county-level; Hamburg: right to vote for foreigners from all countries after eight years of residence in case they hold a special residence permit, the so-called *Aufenthaltsurlaubnis*) was unconstitutional.

<sup>24</sup> An example of rules of this kind is Art 42 par 1 of the Bulgarian constitution: "Every citizen above the age of 18, with the exception of those placed under judicial interdiction or serving a prison sentence, is free to elect state and local authorities and vote in referendums."

<sup>25</sup> For example, Art. 48 par 1 of the Italian constitution contains the following clause: „ All citizens, men or women, who have attained their majority shall be entitled to vote.” Or, to give another example, Art 3 par 4 of the French constitution of 1999 reads "All French citizens of both sexes who have attained their majority and enjoy civil and political rights may vote under the conditions determined by law."

<sup>26</sup> See Commission of the European Communities (2002a). Slovakia (in 2001) and Lithuania (in 2002) had to change their constitutions as well before electoral rights for non-citizens could be introduced.

<sup>27</sup> Due to missing information or information which is only difficult to interpret, no judgement can be passed on the constitutional situation in Greece and Canada.

- the *Amtskommunen* with their county assemblies (*Amtsråd*) in Denmark;
- the provinces with their provincial assemblies (*Landstingsfullmäktige*) in Sweden;
- in the United Kingdom, the *Counties*, *County boroughs*, *Regions* and *Wards* with their *Councils* and in the Greater London Area the *Greater London Authority*;
- the regions with their regional councils in Malta;
- the districts with their district councils and district assemblies in Norway and Hungary;
- the areas with their councils in Australia; and
- the regions with their regional councils in New Zealand.

I don't have to deal with the respective regulations here again because they were described already in sections 0 and 0.

Beyond that rights for non-citizens to participate in elections to a representative body at a level which is not part of the system of local government only exist in four countries.<sup>28</sup>

- In case of reciprocity, citizens of countries with Portuguese as official language may be granted the right to vote in elections to regional assemblies as well as in elections to the national parliament in Portugal; they cannot, however, be given the right to be candidates. At the moment only certain Brazilian nationals with "special statutory political rights' equality"<sup>29</sup> enjoy these rights.
- In the United Kingdom, Commonwealth-Citizens as well as foreign EU-citizens may participate as voters and candidates in elections to the Assemblies in Wales (National Assembly), Scotland (Scottish Parliament) and Northern Ireland (Assembly) under the same conditions as British nationals.
- Foreign nationals may vote (but not be elected) in the Swiss canton Jura at the cantonal level under the same conditions as those that apply at the local level, namely after a minimum duration of residence of ten years.
- Finally, British subjects who were on an electoral roll in Australia before the 26<sup>th</sup> of January 1984 have the right to vote and be candidates in elections at the state-/territory-level (representative bodies: Legislative Council, Legislative Assembly and/or House of Assembly).

So, even though we have to bear in mind that there are no regional elections in 11 countries, the number of states granting foreign nationals electoral rights at the regional level is much smaller than the one allowing them to take part in local elections. The best chance for such rights for non-citizens exists where regional representative bodies are part of the system of local self-government. In most cases the constitutional obstacles to the extension of electoral rights to foreigners are the same as those already discussed in the context of local elections.

#### **Electoral rights at the national level**

Electoral rights at the national level are clearly granted least often to foreign nationals. Nevertheless, there are five countries in our sample of 36 in which at least some non-citizens have the right to vote in national elections but only one in which they have the right to be candidates at the national level:

- In the United Kingdom, the equal treatment of Commonwealth-Citizens and Irish nationals with respect to electoral rights also applies at the national level.
- British nationals may vote in elections to the lower house of parliament (*Dáil Éireann*) in Ireland but they cannot be candidates. Electoral rights in presidential elections and the indirect election into the Senate, however, are reserved for Irish citizens.
- As already mentioned in the previous section, certain Brazilian nationals may vote in parliamentary elections in Portugal.
- In Australia, British subjects who were on an electoral roll before the 26<sup>th</sup> of January 1984 also have the right to vote in parliamentary elections at the national level; they may not, however, stand as candidates.
- In New Zealand, finally, the rules concerning voting rights for foreigners described in the context of local elections also apply at the national level: Foreign permanent residents may vote in parliamentary elections after one year of residence but they cannot be elected into the legislature. The complete equalization of rights of British citizens who were on the electoral roll before 1975 with respect to the right to vote and be elected has been abandoned at the end of 2002.

As this overview demonstrates, only New Zealand has introduced a general right to vote for foreigners at the national level which applies to citizens of all countries. In the other four countries electoral rights

<sup>28</sup> No separate regions, provinces or sub-national states and/or no direct elections in units of this kind exist in Cyprus, Finland, Greece, Ireland, Luxembourg, Iceland, Liechtenstein, Latvia, Lithuania, Slovakia and Slovenia.

<sup>29</sup> See <http://www.acime.gov.pt/VotoE.pdf>.

are granted only to citizens of countries with colonial links in the past (Ireland, United Kingdom, Australia) or which are considered to be culturally similar (Portugal).

In contrast, constitutional or at least legal clauses prohibiting the election or appointment of foreigners into offices at the national level exist in practically all other countries. In Australia, even Australian citizens with more than one nationality who have made no attempt to renounce their non-Australian nationality are excluded from eligibility in elections to the House of Representatives or the Senate. And in the USA, eligibility into the highest office, the US-presidency, is dependent on a place of birth in the United States.

#### **Summary and conclusions**

Finally, let us ask: How can the countries in our sample be classified with respect to the granting of electoral rights to foreign nationals on various political levels? On the basis of the information presented, we can come up with the following classification (see also Table 3):

- *Complete exclusion from electoral rights*: Eight countries in our sample exclude foreigners from the right to vote and be candidates at all political levels. These countries are the five candidates for membership in the European Union Bulgaria, Cyprus, Latvia, Poland and Romania, two additional European countries (Liechtenstein, Russia), and Canada.
- *Electoral rights only for EU-citizens*: Six EU-countries (Belgium, Germany, France, Greece, Italy, Luxembourg), have so far only been willing to grant citizens of other member states of the Union the right to vote and stand for election at the local level as prescribed by EU-law. Legal rules apart from those induced by EU-law are missing in these states. In a seventh country, Austria, local electoral rights for non-EU nationals have been introduced very recently in one of the nine provinces. These new rules will, however, be contested before the Constitutional Court and it is not clear whether they will be able to pass this test.

**Table 3: Electoral rights for foreign nationals – summary**

|   | Local level   |             | Regional / provincial level |             | National level |             |
|---|---------------|-------------|-----------------------------|-------------|----------------|-------------|
|   | Right to vote | Eligibility | Right to vote               | Eligibility | Right to vote  | Eligibility |
| <b>EU-member countries</b>                        |               |             |                             |             |                |             |
| Austria   | EU/(CT)       | EU/(CT)     | —                           | —           | —              | —           |
| Belgium   | EU            | EU          | —                           | —           | —              | —           |
| Denmark   | A/AS/EU       | A/AS/EU     | (A/AS/EU)                   | (A/AS/EU)   | —              | —           |
| Finland   | A/AS/EU       | A/AS/EU     | NRE                         | NRE         | —              | —           |
| France  | EU            | EU          | —                           | —           | —              | —           |
| Germany   | EU            | EU          | (EU)                        | (EU)        | —              | —           |
| Greece  | EU            | EU          | NRE                         | NRE         | —              | —           |
| Ireland   | A/EU          | A/EU        | NRE                         | NRE         | CL             | —           |
| Italy   | EU            | EU          | —                           | —           | —              | —           |
| Luxembourg  | EU            | EU          | NRE                         | NRE         | —              | —           |
| Netherlands                                       | A/EU          | A/EU        | —                           | —           | —              | —           |
| Portugal  | RE/EU/CS      | RE/EU/CS    | RECS                        | —           | RECS           | —           |
| Spain   | RE/EU         | RE/EU       | —                           | —           | —              | —           |
| Sweden  | A/AS/EU       | A/AS/EU     | (A/AS/EU)                   | (A/AS/EU)   | —              | —           |
| United Kingdom                                    | CL/EU         | CL/EU       | CL/EU                       | CL/EU       | CL             | CL          |
| <b>Prospective EU-member countries</b>            |               |             |                             |             |                |             |
| Bulgaria  | —             | —           | —                           | —           | —              | —           |
| Cyprus  | —             | —           | NRE                         | NRE         | —              | —           |
| Czech Republic                                    | [RE]          | [RE]        | —                           | —           | —              | —           |
| Estonia   | A             | —           | —                           | —           | —              | —           |
| Hungary   | A             | —           | (A)                         | —           | —              | —           |
| Latvia  | —             | —           | NRE                         | NRE         | —              | —           |
| Lithuania   | [A]           | [A?]        | NRE                         | NRE         | —              | —           |
| Malta   | RE/AS         | RE/AS       | (RE/AS)                     | (RE/AS)     | —              | —           |
| Poland  | —             | —           | —                           | —           | —              | —           |
| Romania   | —             | —           | —                           | —           | —              | —           |
| Slovakia  | A             | A           | NRE                         | NRE         | —              | —           |
| Slovenia  | A             | (A)         | NRE                         | NRE         | —              | —           |
| <b>Other European countries</b>                   |               |             |                             |             |                |             |
| Iceland   | A/AS          | A/AS        | NRE                         | NRE         | —              | —           |
| Liechtenstein                                     | —             | —           | NRE                         | NRE         | —              | —           |
| Norway  | A             | A           | (A)                         | (A)         | —              | —           |
| Russia  | —             | —           | —                           | —           | —              | —           |
| Switzerland                                       | ECT           | ECT         | ECT                         | —           | —              | —           |
| <b>Classic non-European immigration countries</b> |               |             |                             |             |                |             |
| Australia   | CL/CT         | CL/CT       | CL                          | CL          | CL             | —           |
| Canada  | —             | —           | —                           | —           | —              | —           |
| New Zealand                                       | A             | —           | (A)                         | —           | A              | —           |
| USA   | CT            | CT (?)      | —                           | —           | —              | —           |

**Note:** A = Electoral rights for all foreign nationals (under certain circumstances);  
AS = Electoral rights only for citizens of countries in the same alliance of states (other than the EU, e.g. Nordic states, Council of Europe);  
CL = Electoral rights for citizens of certain countries on the basis of a colonial links in the past;

|      |   |  |
|------|---|--|
| CS   | = | Electoral rights on the basis of “cultural similarities”;                    |
| CT   | = | Electoral rights in certain territories (region, province, or municipality); |
| EU   | = | Electoral rights for EU-citizens;  |
| NRE  | = | No regional / provincial elections;  |
| RE   | = | Electoral rights under condition of reciprocity;                             |
| RECS | = | Electoral rights under condition of reciprocity and cultural similarities;   |
| —    | = | No electoral rights.   |

Codes in parentheses – “( )” – in column “Regional / provincial elections” indicate that even though there are elections to authorities situated between the municipal and the national level, these elections are considered to be part of local self-government. Codes in brackets – “[ ]” – indicate that legal rules are of no practical relevance at the moment but will become effective in the near future.

- *Electoral rights in only a few territorial sub-units:* In Switzerland and the United States, foreigners can only vote – and sometimes also be elected – at the local level in a relatively small number of municipalities and in one case (Swiss canton Jura) also at the regional level.
- *Right to vote at the local level:* Estonia and Hungary have granted non-citizens the right to vote but not to be candidates in elections at the local level (incl., in Hungary, the regional level which is subsumed under the title local self-government). Foreigners in Estonia have to be residents for five years and must have been granted the right to permanent residence before they are allowed to vote, whereas in Hungary a residence permit, which can at least in principle be extended indefinitely, is sufficient.
- *General right to vote in local government elections:* The five Nordic countries, the Netherlands, and since very recently also Slovakia and Slovenia grant foreign residents from all countries the right to vote and be elected in elections within the system of local self-government; Lithuania will join this group of countries soon. In four of these countries, the minimum residence required is reduced or abandoned altogether for citizens of other Nordic and/or EU-citizens; in other words, preferential treatment is based on membership in the same alliance or confederation of states (Nordic Council and European Union respectively). It is interesting to note that in the four EU-member states in this group the introduction of general electoral rights at the local level for foreigners from all countries preceded the coming into effect of the EU-regulations concerning electoral rights for EU-citizens. Finally, in the three Central and East European prospective EU-member countries, the exact preconditions for non-citizens electoral rights (minimum residence? Permanent residence permit?) are not yet fully clear.
- *Electoral rights in case of reciprocity as the dominant principle:* The right to vote and be elected in Portugal, Spain, Malta and most recently also in the Czech Republic is based first of all or solely on the principle of reciprocity, which means that only nationals of states that granted one’s own citizens electoral rights will be granted these rights. Portugal and Spain, of course, also apply EU-law, which, however, is seen as a form of reciprocity in these two countries. In Spain and Malta foreign nationals only have electoral rights within the system of local self-government, whereas in Portugal certain foreign nationals may also vote on the regional and national level. In Malta, the rule of reciprocity is limited to states which are also members of an alliance of states Malta itself is member of (Council of Europe), whereas in Portugal special rules of reciprocity apply to countries with Portuguese as official language, which can be interpreted as preferential treatment on the basis of perceived cultural similarities. Due to the fact that no bi- or multilateral treaties concerning electoral rights for foreign nationals have been signed to date, the respective rules in the Czech Republic are without effect yet.
- *Strong influences of the colonial past on the granting of electoral rights for foreign nationals:* In the remaining four countries Ireland, United Kingdom, Australia and New Zealand, colonial links in the past play an important role in the current practice (or in the case of New Zealand: the practice until very recently) of granting foreign nationals electoral rights. In all four countries, at least some groups of non-citizens have the right to vote and sometimes also the right to be candidates at the national level. Commonwealth-Citizens (i.e. citizens of former colonies) and Irish nationals still have exactly the same electoral rights as British citizens in the United Kingdom; in addition, foreign EU-nationals have the right to vote and be elected in regional elections – a right which goes beyond what is prescribed by EU-law. In Ireland, British nationals also enjoy special rights as they may at least vote in parliamentary elections (but not presidential ones). In addition, all foreign nationals have the full electoral rights at the local level which is not tied to any further conditions. British subjects who were registered as voters at some time in the past still have most

electoral rights in Australia (exception: right to be candidates in national elections) and had them until recently in New Zealand. Since 2003, however, New Zealand treats foreign nationals from all countries equally and grants them the right to vote at the local and national level after one year of residence.

Let me finish with a few conclusions and general observations. First, it is obvious that even though electoral rights may have been, as a rule, the core of those rights which are reserved for citizens of the respective country, this rule does not hold anymore, at least not at all political levels: The majority of European and classic immigration countries already has introduced, in one way or another, electoral rights for non-citizens at the local level. The conditions for the access to these rights and the sizes of the groups of foreigners who can actually benefit from these rights are rather diverse, however, and in some countries it required the impetus of EU-law for such rights to be introduced. Electoral rights at the regional and national elections for foreigners, in contrast, are still a rather rare exception.

Furthermore, the trend towards the extension of electoral rights seems to be rather difficult to reverse: Their withdrawal after they have been granted already to foreign nationals is the rare exception. The only example I found is Spain in 2001 where electoral rights at the local level were again made dependent on the condition of reciprocity after a short period of one year in which general electoral rights for citizens of all countries existed. However, in this short period of time, no elections at the local level were held so that there was too little time for a lobby of persons actually used to exercising these rights to be formed. In addition, I have not come across an example in which general conditions for the access of all foreigners, regardless of their citizenship, to electoral rights were made more restrictive. The abandoning of special electoral privileges for certain groups of foreign nationals, especially when they are rather small, has happened but the respective groups afterwards still enjoyed the right to vote (and be candidates) under the general rules applying to all foreign nationals. An example of this is the recent end to the preferential treatment of British nationals registered as voters in New Zealand before 1975.

It is foreseeable that the trend towards the inclusion of – at least certain groups – of foreign nationals is bound to continue in the near future as all countries wishing to become members of the European Union will have to introduce local electoral rights for EU-citizens. It is interesting to note that a number of countries (Lithuania, Slovakia, Slovenia) which prospectively introduced regulations in this context already before EU-accession have gone beyond the immediate requirements of EU-law by extending electoral rights at the local level to foreign residents from all countries.

Finally, I would like to point to an interesting area for future research. As mentioned in section 0, the general aim behind the introduction of electoral rights for foreigners is to prevent the exclusion of a sizeable population from political participation. This can be achieved in two ways: either by granting foreign residents the right to vote and be candidates in elections or by facilitating the access to citizenship so that the persons concerned can participate as equal citizens. It will therefore be of particular interest to see how countries combine these two methods: Are countries with extensive electoral rights for non-citizens also those which make the acquisition of citizenship for immigrants and their families easy? Or is the relationship rather reversed, meaning that countries either choose to grant foreigners electoral rights or to encourage and facilitate their acquisition of citizenship?

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