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**Abstract:** The article compares the institutional constraints that limit the potential electoral impact of external voting in national legislative elections in the 28 Member States of the European Union (EU). It shows that the discrepancy between policy aims and outcomes can be mainly attributed to a variety of institutional constraints restricting the scope of the policy (through residence and professional qualifications); limiting eligible voters’ access to the ballot (through cumbersome registration procedures and voting methods); and reducing the electoral weight attributed to their votes (through distinct modes of representation). It argues that the discrepancy is at least partly the result of a combination of electoral and normative concerns about the influence that external voters could and should have in elections. Institutional restrictions on the franchise of external citizens may be interpreted as a way to keep the ‘Pandora’s Box’ of unexpected electoral consequences half-shut, by extending the suffrage to a traditionally excluded electorate while at the same time moderating the implications.

**Keywords:** external voting; EU; swamping; tipping; access to the ballot

## Introduction

In 2006 Mexico joined the growing group of states that have extended the right to vote in national elections to their citizens abroad. With an estimated 12 million Mexican nationals residing in the United States alone, the introduction of external voting rights had significant potential to alter the electoral balance in a country that was about to experience one of the most highly disputed electoral competitions in its history. Yet in the presidential elections which took place a few months later, only 32,000 voters cast a ballot from abroad – less than 1% of the estimated expatriate population of voting age. Accordingly, the electoral impact of the reform was negligible. This remarkably low turnout can be mainly attributed to an extremely cumbersome registration procedure, which was purposively introduced in order to mitigate the uncertain yet potentially determinant impact of external voting on electoral results.<sup>1</sup>

This example is illustrative of a trend that can be observed on a global scale. On the one hand, the last three decades have seen a sharp increase in the number of states granting the right to vote in national elections to their citizens who reside temporarily or permanently abroad. Yet in the overwhelming majority of cases, the extension of the franchise has failed to alter expected electoral results significantly. In other words, there has been a noteworthy gap between the *policy aims* of extending the suffrage to all citizens irrespective of their place of residence, and the *policy outcomes*, characterised by low turnout and marginal electoral impact.

In this article we compare the institutional constraints that limit the potential electoral impact of external voting in national legislative elections in the 28 Member States of the European Union (EU). We do not focus on the question of whether external citizens, normatively, *should* be able to vote,<sup>2</sup> or the reasons *why* states may enfranchise their external citizens.<sup>3</sup> Rather, we focus on *how* this proceeds. We show that the discrepancy between policy aims and outcomes can be mainly attributed to a variety of institutional constraints restricting the scope of the policy (through residence and professional qualifications); limiting eligible voters' access to the ballot (through cumbersome registration procedures and voting methods); and reducing the electoral weight attributed to their votes (through distinct modes of representation).

While we do not seek to establish a clear causality and systematically test a hypothesis, we nonetheless argue, based on a combination of existing scholarship and detailed empirical investigation of current electoral laws, that the discrepancy is at least partly the result of a combination of electoral and normative concerns. Specifically, we identify an electoral argument that external citizens may have undue influence over the outcome of national elections either by diluting the votes of existing voters or tipping the result of an election, and a normative argument that external citizens should have a lesser claim to influence in homeland politics because they are less affected or have a lesser stake in the polity. From this perspective, institutional restrictions on the franchise of external citizens may be interpreted as a way to keep the 'Pandora's Box' of unexpected electoral consequences half-shut, by extending the suffrage to a traditionally excluded electorate while at the same time moderating the implications.

The article is organised in two main parts. First, we discuss the normative and practical aspects of extending the franchise to expatriates. Second, we successively examine four aspects of the institutional set up in a comparative perspective across the 28 EU member states, using rich qualitative and quantitative data recently compiled by the European Union Democracy Observatory on Citizenship (EUDO-Citizenship).

### **Expansive Aims, Restrictive Outcomes: the Institutional Limits of External Voting**

The idea that citizens living outside a country's borders should continue to enjoy voting rights in their country of citizenship has gained increasing traction in recent years. Most states until the 1960s either formally limited the right to vote to residents alone, or neglected to set up institutional pathways to enable their citizens to cast a ballot from abroad. Their inclusion in the demos was seen as an anomaly that could hardly be reconciled with the requirements of representative democracy.<sup>4</sup> By the early 21st century, the reverse was true (a recent survey indicated that only 45 states, out of 174 worldwide for which data are available, still completely disenfranchise their nationals living abroad),<sup>5</sup> reflecting a wider shift in attitudes towards external citizens from benign neglect or outright hostility toward their gradual inclusion in the political community (see Lafleur in this volume).<sup>6</sup>

In most instances, however, the electoral impact of the 'expatriate vote' has been insignificant. Only occasionally has the mobilisation of external voters changed the electoral balance to the benefit of political parties or candidates that had failed to

obtain a majority of domestic votes already. The 2006 general election in Italy provides one such exception. The scale of mobilisation and the clear partisan preference for left-wing parties among a newly-represented electorate of Italians abroad came as a surprise to most, and especially to Silvio Berlusconi's right-wing coalition partners who had played an instrumental role in the introduction of external voting rights in 2001, under the assumption that they would be electorally rewarded for it.<sup>7</sup> These seats were to prove crucial to the coalition. In a similar vein, the narrow re-election of Traian Basescu in the 2009 presidential elections in Romania has been widely attributed to the ballots cast by 'Romanians abroad' who, despite a relatively low turnout, voted *en masse* for the ruling party.<sup>8</sup>

Yet these much-publicised cases are the exception rather than the rule. The most important reason for this may be that claims about an 'age of migration' are overstated, as the proportion of individuals living in a country other than the one in which they were born remains marginal as a percentage of the world population. For better or worse, most people still live sedentary lives and the membership boundaries of the demos and the territorial boundaries of the state remain by-and-large congruent.<sup>9</sup> However, in the growing number of countries that do enfranchise non-resident citizens, turnout among external voters has been consistently lower than among domestic ones.

Such differential turnout may derive from the fact that political parties have neglected their external constituencies, while external voters have neglected domestic politics. On the one hand, the organisational challenges of campaigning abroad require considerable resources that political parties may lack or be unwilling to mobilise. On

the other, voters who left their country of citizenship long ago, or may never even have stepped foot in their putative 'homeland', may have limited interest in the politics of their country of origin. The interaction between an apathetic constituency and an indifferent political class goes far in explaining the low levels of political participation among an electorate that is generally less informed and more remotely affected by elections than their counterparts residing in the country. However, the expected costs and benefits for both parties and external voters are also determined by the institutional set up which regulates the potential electoral impact of non-residents. Hence, rules matter, and a thorough comparative examination of their scope and implementation is required in order to understand the distinctive opportunities and constraints that shape the behaviour of both voters and parties.

Before turning to the aspects of the institutional set up limiting the electoral impact of external voting, we briefly discuss two reasons why states may be encouraged to introduce such restrictions in the first place.

The introduction of external voting rights raises a combination of electoral and normative concerns. Electorally, external citizens may be perceived to have undue influence over the outcome of national elections, either by diluting the votes of existing voters or tipping the result of an election. Existing scholarship has pointed to the fact that the anticipated electoral impact of introducing external voting rights shapes to a considerable extent the scope and implementation of the policy.<sup>10</sup> Whilst desirable from a Rawlsian perspective, the veil of ignorance has long been lifted on the preferences and positions of citizens residing in liberal democracies, but the socio-demographic characteristics and, most importantly, ideological inclinations of

expatriates are largely unknown to political elites potentially competing for their votes. In political discourses, expatriate populations tend to be reified as 'diasporas', homogenous groups whose members share a clearly identifiable set of objective attributes and are collectively bounded by a common attachment to the homeland.<sup>11</sup> However, their dispersion across vast geographical areas and the broad range of reasons that led to their *absence* from the homeland suggests that external citizens may in fact be a highly diverse and fragmented constituency, whose electoral behaviour is both volatile and uncertain.

Bauböck has drawn an insightful distinction between the fears of 'swamping' and 'tipping'.<sup>12</sup> In the former, the pool of external voters is seen as disproportionately large compared to the domestic electorate and threatens to 'swamp' its influence. In the latter, the external vote may be expected to play a decisive role in determining the outcome of the election. This uncertainty is more pronounced before voting rights are introduced and tends to decline from one election to the next. If the tipping and swamping scenarios fail to materialise in the medium term (or prove greater than expected), we may expect modifications to the initial institutional constraints. While political parties may have contrary expectations – with some anticipating electoral rewards and others, liabilities – the necessity to reach a minimal consensus militates against the adoption of an ambitious reform, the consequences of which are unpredictable.

Normatively, the argument focuses on whether external citizens should be represented on equal terms with resident citizens. It can be argued under different principles of enfranchisement that the degree of influence that should be given to

different groups can be differentiated according to the extent to which they are affected by, subjected by or stakeholders in the state's laws.<sup>13</sup> External citizens may not be immediately influenced by most day-to-day laws of a state in which they do not live. Thus the representation given to them need not be equal with that of resident citizens.<sup>14</sup> Such arguments have been invoked in various countries against the extension of the franchise to external citizens. In Britain, for instance, initial parliamentary opposition to the principle derived from the fact that government formation in the UK is a by-product of an electoral system that explicitly elects individual local representatives without any proportional seat allocation at national level, and that a person's link to a specific locality diminishes rapidly once he or she leaves.<sup>15</sup>

In the rest of this article we explore the ways in which various institutional frameworks interact with the enfranchisement of external voters to mitigate the potential impact of a population that is widely seen as having a lesser claim to influence over the polity than its fellow citizenry residing in the country. Our analysis complements earlier comparative studies which have found that that rights of enfranchisement beyond the realm of permanently resident national citizens vary widely by country, by electoral level and by category of exception.<sup>16</sup> We place our focus on four factors and institutional constraints that contribute to determining the potential electoral impact of non-resident citizens on the electoral process:

- (1) Differences in the size of the external citizenry;
- (2) Restrictive rules of eligibility;
- (3) Restrictive rules of access to the ballot;

### (4) Different modes of representation.

Electoral concerns of ‘swamping’ and ‘tipping’ are addressed by all four modes of restriction. ‘Swamping’ is most likely to occur where external groupings are large, in which case restricting the number of eligible citizens can be achieved either by using nationality laws to restrict the extra-territorial perpetuation of citizenship, or by limiting the eligibility of external citizens to vote in the first place, through a combination of *residence-based* and *professional* qualifications. Moreover, even if all or most external citizens are enfranchised in principle, the extent to which they can participate in practice depends on how easy it is *to register* and *to cast a ballot*.

Once the external electorate has voted, the extent to which it threatens to ‘swamp’ or ‘tip’ the domestic electorate depends on how the non-resident voters are represented. Discrete or ‘special’ representation is often depicted as an enabling factor in guaranteeing that the distinct interests of the external community are represented in the life of the home state,<sup>17</sup> though Bauböck has pointed out that non-resident enfranchisement should be based on these citizens’ continued stake *inside* the polity.<sup>18</sup> Discrete representation can also be used to mitigate the potential swamping effect by reducing the external electorate’s relative representation in relation to native citizens’. Such separate representation leads, however, to a greater danger of ‘tipping’, which is most likely to occur where the external electorate is cohesive and collectively mobilised. This can be addressed by each of the four types of restriction but most effectively by dispersing the votes of external citizens and assimilating them locally across the country, thus dissipating their effect and reducing their ability to act as a cohesive bloc. We do not postulate clear causal mechanisms

between these factors, nor do we suggest that these restrictions are always deliberate acts on the part of political elites with the explicit aim of alleviating fears of swamping or tipping. Moreover, we acknowledge that other factors may play a role and that the sample of 28 EU countries, whilst a substantial and coherent geographical set, may be not be large enough for individual national factors to be discounted from the equation. Nonetheless, we suggest that normative concerns may at least play a role in setting the agenda surrounding external enfranchisement, and that there is some degree of correlation between the openness with which states embrace their external citizens as part of the demos and the potential impact that that electorate may have.

### **The Participation of External Citizens in Practice: A Comparative Overview of EU Member States**

To examine the qualitative differences between the electoral rights of external citizens we focus on four levels of restriction in one form of election – national parliamentary elections – across the 28 EU Member States. National parliamentary elections provide greatest comparability as they are held in every state, usually relate to the most powerful level of government within the country, and are fully under national jurisdiction. We utilise data recently compiled by the European Union Democracy Observatory on Citizenship (EUDO-Citizenship), in the form of electoral rights data drawn from a comprehensive database of current electoral laws across the 28 EU members.<sup>19</sup>

*The Size of the External Electorate*

The dangers of 'swamping' are potentially greatest with large emigrant populations. In the literature on external voting rights, the presence of citizens residing abroad is often interpreted as the consequence of international migrations. Yet we should bear in mind that such a focus neglects the role that a state can play in regulating the size of its external citizenry through nationality laws. An exclusive focus on emigration patterns also emphasises migration of citizens across borders while neglecting the migration of borders across citizens (such as from the dissolution of established states and the creation of new ones) and stemming from the questionable premise that transnational communities constitute themselves almost naturally, irrespective of policies and discourses that are being pressed upon their members by political elites in their countries of residence and of citizenship.

Instead, there may be several reasons for why external citizens of a country hold that status, including emigration, citizenship by descent (*ius sanguinis*) or acquisition of citizenship through cultural or ethnic affinity. Under certain circumstances that citizenship may be lost, such as naturalisation in another country which does not allow dual citizenship, or loss of ties to the home country. In examining the size of the external population of country, we must therefore bear in mind that this is a reflection not only of emigration but also of historical pathways and laws on the acquisition and loss of citizenship beyond the territorial jurisdiction of the state, insofar as they influence the universe of potential voters in the first place.

The resultant size of the external population can then in turn be expected to influence the propensity of policy-makers to enfranchise their external citizens, or to introduce certain restrictions to that enfranchisement. Specifically, the extent to which the electoral concerns of ‘swamping’ and ‘tipping’ and the normative concerns about the equality of their representation are prevalent can be expected to be related to the number of voters involved.

The measurement of the external population is difficult. Ideally, we would take account of the number of citizens abroad based on a combination of migration, border changes and the rules on acquisition and loss of citizenship, the latter of which gives a policy instrument that states can use to regulate the perpetuation of its overseas population. Unfortunately, such a comprehensive source does not exist. As an approximation, we use a combination of UN Migration Stock data and Eurostat data.<sup>20</sup> This has certain shortcomings – not least that it has exactly the over-emphasis on migration rather than citizenship status discussed above, and potentially misses kin state minorities who have never lived in the country – but it gives at least a basic indication of how large each country’s external community potentially is relative to other states’, even if it largely neglects the instrumental element of discretion involved in citizenship regimes.<sup>21</sup>

*[Figure 1 about here]*

Figure 1 shows the proportionate sizes of the emigrant population as a share of the number of resident citizens. It is immediately apparent that the 28 EU states divide into one group with relatively large emigrant populations (over 13% of the overall

citizenry), and another in which the number of external citizens is relatively small (below 9%). Of the states with large external populations, it is notable that most have some sort of restriction around the enfranchisement of these citizens. Malta, Ireland and Cyprus use limitations of eligibility, while Croatia, Portugal and Romania separate out the representation of external voters into a number of discrete seats. Some of these states are also restrictive in terms of how easy it is to register or access the ballot, while in others – such as Bulgaria – the enfranchisement of external citizens has been controversial, as we shall see below.

Therefore, there appears to be some correlation between emigrant communities that represent a significant proportion of the overall potential electorate and restrictions on the influence that that electorate has on domestic politics.

### *Eligibility Criteria*

In most EU Member States, the possession of citizenship alone is a sufficient condition for the award of voting rights (assuming a potential voter registers to vote and is not disenfranchised by other universal restrictions such as age or criminal convictions).<sup>22</sup> Only seven states have eligibility restrictions based on residence and professional qualifications. These are shown in figure 2, which sub-divides states according to the type of restrictions that apply, and the relative extent of these.

*[Figure 2 about here]*

As we have noted already, most external citizens *de facto* cannot vote in Cyprus, Malta and Ireland (and in Denmark, which has a smaller emigrant population). This proceeds implicitly from a requirement of current residence. A limited group of citizens outside the country retain their voting rights on the basis that, although absent, they are still *de jure* living in the country: state servants (such as diplomats or soldiers) and, in Cyprus and Denmark, those who are deemed to be only temporarily absent (though, in Cypriot case, this is tempered by whether the voter can in fact access that vote).<sup>23</sup>

Three further states require past residence, which limits the enfranchisement of people who have acquired citizenship by descent, or who left the country long ago. In Sweden, this residence must have been within the voter's lifetime, while Germany requires three months' residence within the previous 25 years, albeit (since 2013) with discretionary exceptions if a verifiable connection to German public life can be documented.<sup>24</sup> The UK is less flexible: Britons abroad who wish to vote must have lived in the UK within the previous 15 years, and (unless they were too young at the time) have been included in the electoral register prior to their departure. The time limit has changed over the years, initially being set at five years in 1985, extended in 1989 to 20, and then reduced (in 2000) to 15.<sup>25</sup> These three states with past residence requirements have relatively small external populations (proportionally), but the restrictions ensure that only those who are 'stakeholders' based on recent interaction with the polity are able to continue voting. By contrast, three of the four states that have present residence requirements also have large external populations (Malta, Cyprus and Ireland). Ireland is often held up as an archetypical example of state with a large external population which could be subject to 'swamping' effects –

though in fact the number of actual citizens (as opposed to the much larger number of people of Irish descent) is arguably no higher than in many other countries.<sup>26</sup>

### *Accessing the Ballot*

As we saw earlier, there are various means by which the unpredictable effects of external voting are attenuated. The central premise of this study is that an expatriate, even once enfranchised, often faces more obstacles to gaining representation than a native citizen. Two of the primary barriers to ballot access derive from registration and voting procedures.

*Registration.* The ease with which a prospective voter can vote is affected by whether a state practises automatic registration (from other civil registration information) or active registration (in which the voter must apply separately and personally to the relevant authorities) – the latter of which obviously requires more effort. Figure 3 classifies states by these criteria.

*[Figure 3 about here]*

Whereas only four countries – Cyprus, France, Ireland and the UK – require active registration on the part of regular domestic voters, active registration is the EU norm for external voters. The bold country codes denote states in which the registration procedures are more onerous for non-residents than for residents. The large number of these indicates, once again, that states that enfranchise their external populations do not always do so on equal terms. Of the states that have active registration,

Belgium and Cyprus require it only the first time a voter registers, and Austria and Sweden require re-registration every ten years. In all other cases, the registration must be renewed frequently, and sometimes the task is accompanied by further bureaucratic hurdles – such as the UK’s initial requirement for a countersignature by another unrelated British citizen living abroad.<sup>27</sup> Denmark and Italy make the process automatic only for state employees and later-generation immigrants respectively.

*Casting a vote.* Being entitled and registered to vote are only part of the equation when it comes to accessing electoral rights. The relative ease with which a ballot can be cast also forms an important element in the equal treatment of non-resident voters. For domestic voters, voting generally involves a trip to a local polling station, with further options in many (though not all) cases for those who cannot vote in person. It is therefore important to look beyond the formal right to vote to the methods that voters can utilise to exercise that right, in order to assess how equally non-resident voters are able to use their ballot.

*[Table 1 about here]*

Table 1 shows the combinations of ballot-casting that are possible in each country. Two methods – in-country voting and in-person voting at diplomatic premises – involve greater time and expense, either by returning to the country or potentially making a trip to the embassy or consulate. Postal, proxy and (as in Estonia and France) internet voting are more inclusive, but these methods have been rejected in some countries because of concerns about secrecy.

A group of nine states can be regarded as 'restrictive' in this regard, with varying degrees of constraint. The ballot is arguably least accessible in Greece and (for the small number of citizens enfranchised) Malta, which require voters to return to the country to vote.<sup>28</sup> It is also the only guaranteed method in Cyprus where the option of voting on diplomatic premises is discretionary and dependent on at least 30 applications in a district.<sup>29</sup> Two states allow voting only on diplomatic premises (Portugal and Croatia)<sup>30</sup> and five others (Bulgaria, Cyprus, the Czech Republic, Finland and Romania) offer both these methods but no others.

Evaluated overall, the process of registering for and accessing the ballot qualifies the right to vote in practice. Comparison of these nine 'restrictive' states once again indicates certain interesting connections between this group and other forms of restriction. Portugal, Croatia and Romania have special representation for their large external communities. Cyprus, as noted, has significant other qualifications of citizenship and voting rights abroad. Greece and Bulgaria are both unrestrictive of the right to vote in principle but in practice it is controversial. Greece, which has a relatively expansive citizenship regime and moderately high number of external citizens, has never legislated to put its constitutional guarantee of the right to a postal ballot into effect (despite a failed attempt in 2009).<sup>31</sup> In Bulgaria, which has both a large emigrant population and an expansive external citizenship regime, particular controversy has centred on the suspicions of targeted electoral mobilisation of the Bulgarian-Turkish diaspora in Turkey, where a disproportionately large number of polling stations are set up and whose votes tend to fall overwhelmingly to the Movement for Rights and Freedoms (MRF).<sup>32</sup>

*Representation*

Even if states enfranchise their external citizens and allow them to access their voting rights easily, the political salience of non-resident voters' concerns can be affected by whether their votes are segregated or dispersed. Figure 4 shows how states represent their external voters in the electoral system.

*[Figure 4 about here]*

*Discrete representation.* We have highlighted the fact that policy-makers tend to be concerned by the uncertainty of how external voters may vote and, more particularly, by the dangers of 'swamping' when these groups are large. This is most likely to occur when there is a large non-resident population and the votes of individuals within that diaspora count equally alongside those of residents.<sup>33</sup> Aside from straightforward disenfranchisement, one way that a state can still retain some degree of control over the potential effects is by separating out their representation into a discrete group of seats in the national parliament. This not only isolates that group's representation, but also segments the political interests of the expatriate community.

Additionally, the isolation of external representation from in-country representation enables variations in the number of voters per seat between the two groups. If 'swamping' is a concern, non-resident citizens' representation can be reduced relative to the native population's if their representatives are clearly definable and accountable only to that electorate. As Table 2 shows, most of the states with external representatives follow the principle of territoriality and divide their non-

residents into several geographically-defined voter districts.<sup>34</sup> The exception is Croatia, which treats all non-resident voters worldwide as a single constituency.

*[Table 2 about here]*

When we compare the number of registered voters per seat, France's 11 single-member district constituencies for the external electorate represent only a marginal under-representation relative to the domestic electorate – though as the external population is (relatively) small, this is perhaps unsurprising. The other cases, however, are more illuminating. Italy's 3.5 million external voters collectively account for 7% of the electorate but have only 2% of the representation. A similar phenomenon is found in Portugal where the number of voters per external seat is more than double the average for the mainland seats. In Croatia, where external voters represent almost a tenth of the registered electorate, the three deputies for the diaspora represent on average 137,253 voters, compared with 27,251 per seat inside the country. However, this formal under-representation can to some extent be seen as compensation for lower registration and turnout rates among external voters. Indeed, as the final columns of Table 2 show, once turnout is taken into account, these differences are reduced or even reversed.

This highlights that the relative strength of the representation is only one of several factors that attenuate the impact of external voters' votes. Croatia is a good example of such electoral engineering. Approximately three-quarters of the external electorate lives in neighbouring Bosnia and Hercegovina, making the group more like kin citizens than a worldwide diaspora.<sup>35</sup> The number of external seats has varied in

Croatia's post-transition history and been politically controversial. In 1995, the 12 seats set aside for external voters *over*-represented them once turnout was accounted for. From 2000 to 2007 the number of seats for the non-resident voters was variable and connected to turnout, effectively equalising the representation of all citizens inside and outside the country. The uncertainty engendered by this led to constitutional issues regarding the fact that the overall size of the parliament could potentially exceed its maximum prescribed size, so the number was fixed at three in 2011. This formally leaves the external citizenry under-represented in the national parliament but the very low turnout more than cancels this out when the number of actual voters is taken into account.<sup>36</sup>

To summarise, states that have discrete representation deal with the potential problem of 'swamping' by separating and reducing the relative share of the external electorate's representation, letting differential turnout rates compensate for the formal under-representation of external voters. As Lafleur demonstrates in the Italian case, this may be a conscious decision and it can have unexpected consequences.<sup>37</sup>

Discrete representation keeps external voters' preferences to the fore and can contribute to the politicisation of their interests.<sup>38</sup> This points to the other danger to the domestic political elite, namely that the few seats elected by external citizens could prove decisive in in a close election. This is a manifestation of the 'tipping' effect. One solution to this is the dispersal of the expatriate vote through assimilation at the sub-national level.

*Assimilation by biographical ties.* Discrete representation is still the exception rather than the rule. All but five states assimilate the representation of external citizens into

the in-country voting totals, either at the aggregate national level, to a single pre-defined district within the country, or (most commonly) into different electoral districts, usually based on biographical ties such as a voter's last place of residence or ancestral home.

Spiro has highlighted scenarios in which assimilated representation may be the most logical solution: where the electoral system distributes seats territorially (such as in the UK); where the external electorate is relatively small; or where the normative point of equality of representation is paramount.<sup>39</sup> Moreover, although discrete representation solves the 'swamping' danger, a mobilised and consolidated external electorate may also have a 'tipping' effect when their votes are consolidated as a bloc. This can be mitigated if their voting power is dissipated across multiple constituencies and assimilated into local ballots.

Among the 15 states with assimilated representation, Cyprus, Denmark, Ireland, and Malta allow only a small number of external citizens to vote in the first place (as noted earlier), so the chances of political mobilisation of this group are low. Of the other 11, all but Estonia and Luxembourg have relatively low proportions of emigrants. In these two cases, there is a significant external population and a misalignment between citizenship and residence.<sup>40</sup> Only 45% of the resident population had the right to vote in national elections in Luxembourg in 2009, while only 34% of the total citizen population were living or working on the country's territory.<sup>41</sup> In the Estonian case, turnout of the external electorate has also been very low.<sup>42</sup> Thus, if the assimilation by biography is the main means of dispersing their collective political power, the low turnout figures also compound this. The extent to

which the turnout would be higher if the votes were more concentrated is, of course, worth considering.

Although assimilation by district is held to be a means of *dispersing* the political influence of the external electorate, Belgium provides an interesting counter-example. In this case expatriates can choose the municipality into which their votes will be assimilated, thereby steering controversies among Flemish political elites who fear that the vote of Francophone citizens abroad may be used in order to alter the electoral balance in the linguistically disputed municipalities in the periphery of Brussels.<sup>43</sup>

*Assimilated representation into a specific electoral district.* Finally, there is a residual group of states that assimilates all their non-resident voters' votes but do not divide them up into individual constituencies. Hungary and Bulgaria add the votes into the national totals (meaning that they influence only the higher-tier of nationally-allocated seats). In Bulgaria this was introduced precisely because of the 'swamping' risk through external votes, which were until 2001 dispersed to sparsely populated districts but began to play a disproportionate role in their regional representation.<sup>44</sup>

The remaining six states – the Czech Republic, Latvia, Lithuania, the Netherlands, Poland and Slovakia (plus Slovenia for voters whose biographical connection cannot be ascertained) – allocate external votes to a single voting district somewhere within the state. This is usually within the capital city, though in the Czech Republic the constituency is chosen by lot. A rare example of tipping occurred in the Czech 2006 parliamentary election, in which the random allocation of the external votes to the

South Bohemia district led to an extra seat for the centre-right Civic Democrats due to the strong support for the party among the fewer than 7,000 external voters who participated. This took the overall left-right balance in the parliament to a deadlocked 100-to-100 seats, and denied the left a majority.<sup>45</sup>

Nonetheless, the dangers of this mode of assimilation may not be as large as they first appear. In Poland and the Netherlands, for example, the overall result is calculated across the country as a whole. It may even afford practical advantages: in Slovakia, all external voters are registered to a polling station in the Bratislava-Petržalka district (close to Bratislava airport), which is also the station at which they must vote if they return to the country to cast a ballot in person. This keeps the administrative structure simple and guards against double-voting.

### **Conclusion**

The generalisation of the external franchise is a recent phenomenon, which has had far reaching implications on the composition of the electorate and on the way in which competitive politics are fought out beyond the jurisdiction of the state. It is one aspect of an ongoing transformation of the relationship between territory, sovereignty and citizenship in a world characterised by protracted international migrations. This, however, has generated a variety of anxieties among political elites, concerned with the potentially determinant electoral impact of granting voting rights to a population whose partisan preferences are largely unknown and who are presumably less affected by the results of elections than their fellow citizens residing in the country where the election is held.

As a result, policy makers have sought to keep the Pandora's Box 'half-shut', introducing external enfranchisement but using a variety of methods to ensure that the effects are mitigated. We have seen that, although external voting is a widespread phenomenon, its actual effect on election results is relatively limited, a phenomenon which can be partly attributed to multiple layers of *de facto* restrictions on the *de jure* right to vote. No EU state completely disenfranchises all its external citizens, but there is considerable variation on how many expatriates can vote based on the interaction of the vote with external population size, citizenship law, residence requirements, registration and voting procedures and modes of representation. Nevertheless, the rules and procedures regulating the external franchise are not set in stone, and recent developments suggest that restrictions are being gradually lifted in most EU Member States. Whether these changes will adequately deal with the electoral and normative concerns that accompany the phenomenon is a topic for future research.

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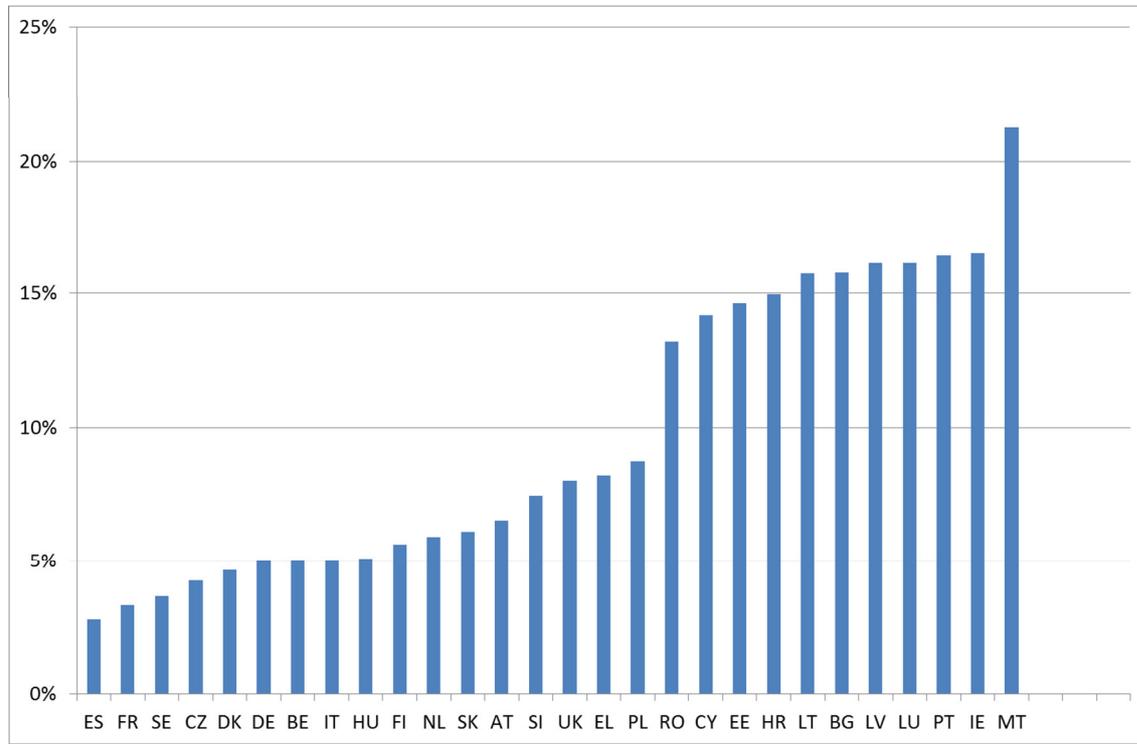
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Figures and Tables

Figure 1: Emigrant populations as a percentage of all citizens



**Notes:**

Figures represent the percentage of emigrants as a proportion of all citizens. Country codes are ISO-3166-1-alpha 2 country codes, as modified by the European Union. See <http://publications.europa.eu/code/en/en-370100.htm>.

**Sources:** Eurostat. *Population by Citizenship*; Eurostat, *Europe in Figures*; United Nations, Population Division. EUDO-Citizenship country reports: <http://www.eudo-citizenship.eu/electoral-rights/electoral-rights-reports>.

Figure 2: Conditions of eligibility and residence, national legislative elections

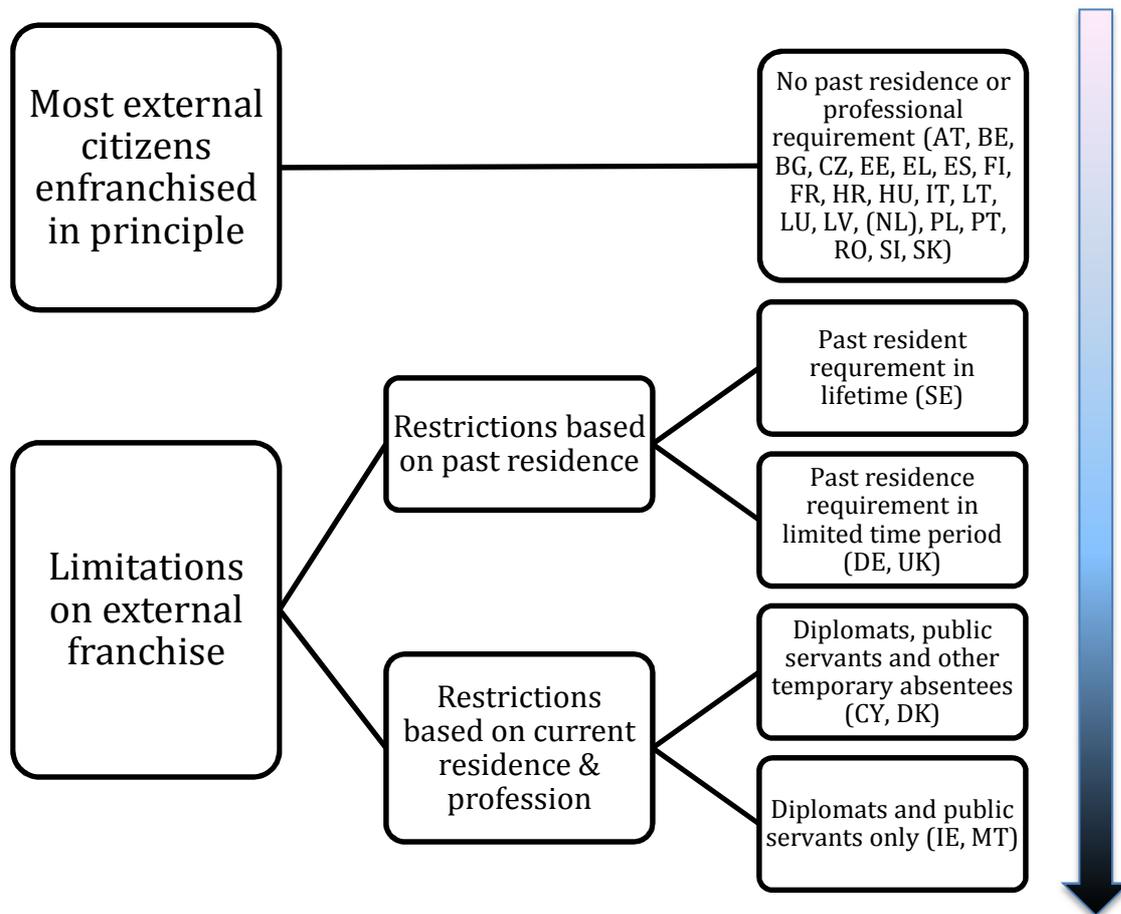
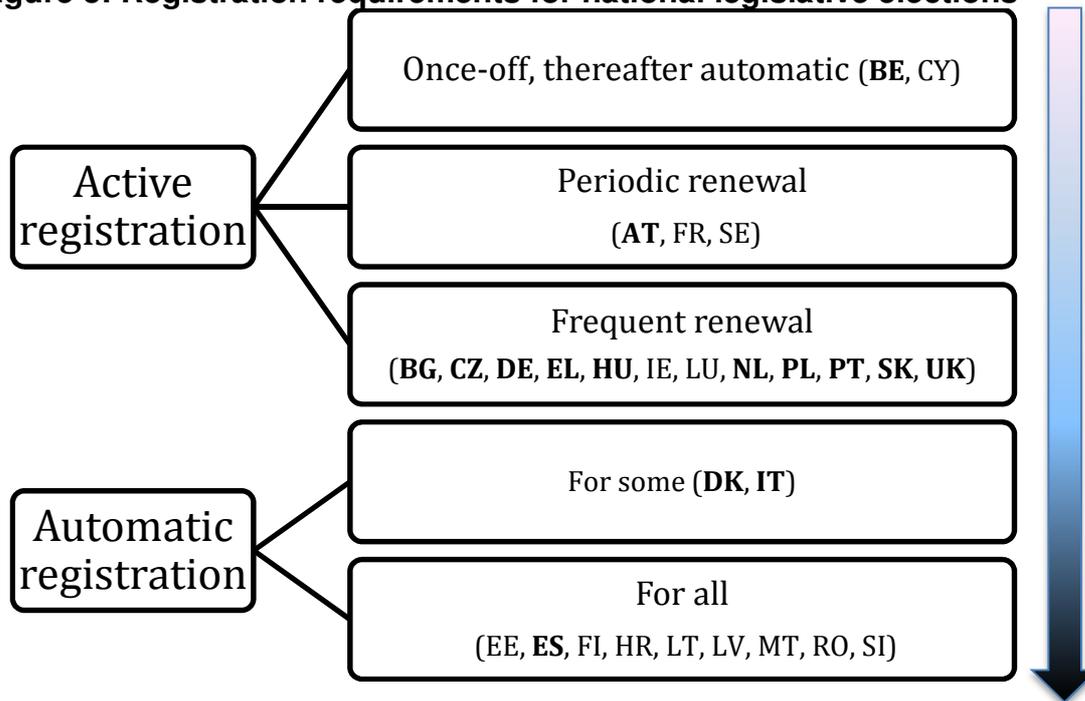


Figure 3: Registration requirements for national legislative elections



Note: States in **bold** have more stringent requirements for external citizens than for resident citizens.

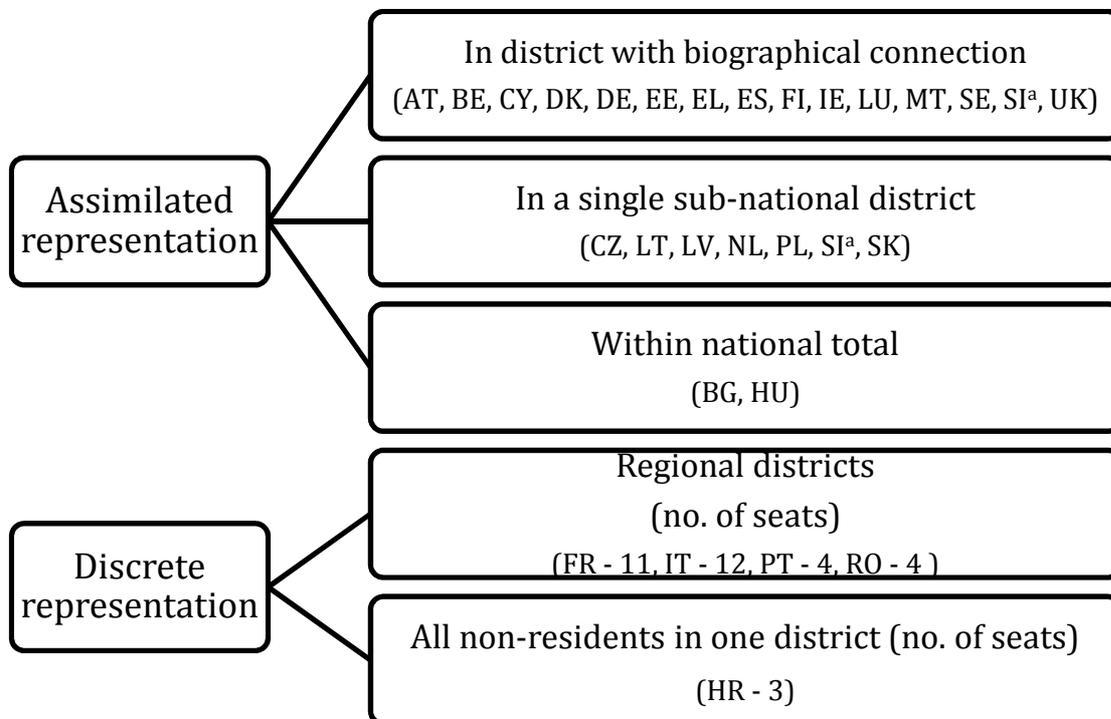
**Table 1: Ballot-casting options, national legislative elections**

	<b>In-country voting</b>	<b>Personal voting abroad</b>	<b>Proxy voting</b>	<b>Postal voting</b>	<b>E-voting</b>
AT	YES	NO	NO	YES	NO
BE	YES	YES	YES	YES	NO
BG	YES	YES	NO	NO	NO
CY	YES	YES (a)	NO	NO	NO
CZ	YES	YES	NO	NO	NO
DE	YES	NO	NO	YES	NO
DK	YES	YES	NO	YES	NO
EE	YES	YES	NO	YES	YES
EL	YES	NO	NO	NO	NO
ES	NO	YES	NO	YES	NO
FI	YES	YES	NO	NO	NO
FR	YES	YES	YES	YES	YES
HR	NO	YES	NO	NO	NO
HU	NO	YES	NO	YES	NO
IE	NO	NO	NO	YES	NO
IT	YES	NO	NO	YES	NO
LT	NO	YES	NO	YES	NO
LU	NO	NO	NO	YES	NO
LV	YES	YES	NO	YES	NO
MT	YES	NO	NO	NO	NO
NL	YES	YES	YES	YES (b)	NO
PL	YES	YES	YES (c)	YES	NO
PT	NO	YES	NO	NO	NO
RO	YES	YES	NO	NO	NO
SE	YES	YES	NO	YES	NO
SI	YES	YES	NO	YES	NO
SK	YES (d)	NO	NO	YES	NO
UK	YES	NO	YES	YES	NO

Notes:

- (a) In Cyprus, the setting up of polling stations abroad is discretionary and depends on at least 30 applicants.
- (b) In the Netherlands, postal voting is only available to those abroad for work purposes.
- (c) In Poland, proxy voting is only available to those aged over 75 or disabled.
- (d) In Slovakia, all external voters who vote in-country must do so in a single polling station in Bratislava-Petržalka district.

**Figure 4 Modes of representation**



**Note:**

<sup>a</sup> = if biographical connections cannot be ascertained, votes are allocated to the electoral district that is the declared choice of the voter.

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Table 2: Voters per seat in four states with discrete representation

Country (Year)	Constituency	Registered Voters	No. of seats	Voters/ seat	Turnout (%)	Actual voters/seat
Italy (2013)	Africa/Asia/Oceania/Antarctica	185,488	1	185,488	30.7%	56,853
	S. America	1,093,766	3	364,589	34.8%	126,845
	N-C. America	328,788	2	164,394	29.9%	49,109
	Europe	1,886,645	6	314,441	31.1%	97,781
	<i>Italy external total</i>	<i>3,494,687</i>	<i>12</i>	<i>291,224</i>	<i>32.1%</i>	<i>93,525</i>
	<b>Italy (inland)</b>	<b>46,905,154</b>	<b>617</b>	<b>76,021</b>	<b>75.2%</b>	<b>57,166</b>
France (2012)	1 - North America	156,645	1	156,645	19.1%	29,869
	2 - Central/South America	73,229	1	73,229	15.6%	11,390
	3 - North Europe	88,405	1	88,405	20.6%	18,178
	4 - Benelux	96,964	1	96,964	26.0%	25,242
	5 - Iberia	79,530	1	79,530	20.8%	16,507
	6 - Switzerland/Liechtenstein	106,689	1	106,689	22.4%	23,872
	7 - Central Europe/Germany	89,089	1	89,089	24.1%	21,449
	8 - Mediterranean	109,389	1	109,389	12.8%	13,965
	9 -N-W Africa	97,068	1	97,068	18.3%	17,724
	10 - Rest of Africa/Arab	91,324	1	91,324	23.0%	21,038
	11 - Asia & Australasia	78,893	1	78,893	26.1%	20,569
	<i>France External Total</i>	<i>1,067,225</i>	<i>11</i>	<i>97,020</i>	<i>20.6%</i>	<i>19,982</i>
	<b>France (inland)</b>	<b>42,166,423</b>	<b>566</b>	<b>74,499</b>	<b>56.3%</b>	<b>41,931</b>
Portugal (2011)	Europe	75,053	2	37,527	23.9%	8,970

HUTCHESON AND ARRIGHI 2015/cont.

	Rest of World	120,056	2	60,028	12.6%	7,560
	<i>Portugal External Total</i>	<i>195,109</i>	<i>4</i>	<i>97,555</i>	<i>16.9%</i>	<i>8,265</i>
	<b><i>Portugal (inland)</i></b>	<b><i>9,429,024</i></b>	<b><i>226</i></b>	<b><i>41,721</i></b>	<b><i>58.9%</i></b>	<b><i>24,582</i></b>
Croatia (2011)	Croatia External total	411,758	3	137,253	5.1%	7,038
	Croatia (inland)	3,842,363	141	27,251	61.9%	16,881

Sources: French Ministry of Interior (2012); Italian Ministry of Foreign Affairs (2013); Portuguese Director General of Internal Affairs (2011); Croatian State Electoral Commission (2011).

**Notes**

- 1 Lafleur, *Transnational Politics*, p. 97.
- 2 Lopez-Guerra, 'Should Expatriates Vote?'; Beckman, *Frontiers of Democracy*.
- 3 Lafleur, 'Why do States Enfranchise Citizens Abroad?'
- 4 Bauböck, 'Stakeholder Citizenship,' p. 2038; Bauböck, 'Expansive Citizenship', p. 683.
- 5 Ellis et al., *Voting from Abroad*; Collyer, 'Extra-territorial Citizenship.'
- 6 Østergaard-Nielsen, *International Migration*; Lafleur, *Transnational Politics and the State*; Bauböck, 'Stakeholder Citizenship,' p. 2038.
- 7 Battiston and Mascitelli, 'Challenges to Democracy and Citizenship', p. 265.
- 8 Burean, 'Political Participation by the Romanian Diaspora', p. 84.
- 9 Favell, 'Rebooting Migration Theory', p. 271.
- 10 Lafleur, *Transnational Politics*.
- 11 Brubaker, 'The 'Diaspora' Diaspora.'
- 12 Bauböck, 'Stakeholder Citizenship,' p. 2038.
- 13 Dahl, *Democracy and its Critics*; Goodin, 'Enfranchising All Affected Interests'; Owen, 'Resident Aliens, Non-resident Citizens and Voting Rights,' p. 64; Bauböck, 'Rights and Duties of External Citizenship', p. 479 & 489.
- 14 Ibid., p. 489.
- 15 *House of Commons Debates (Hansard)*, 29 January 1985, vol 72, columns 181-243 (c.191). Available online: [http://hansard.millbanksystems.com/commons/1985/jan/29/extension-of-parliamentary-franchise#column\\_191](http://hansard.millbanksystems.com/commons/1985/jan/29/extension-of-parliamentary-franchise#column_191), accessed 26 May 2014
- 16 Blais et al., 'Deciding who has the Right to Vote'; Shaw, *Transformation of Citizenship*; Nohlen and Grotz, 'Legal Framework' and Arrighi et al., *Franchise and Electoral Participation*.
- 17 Lafleur, *Transnational Politics*, p. 41; Spiro, 'Perfecting Political Diaspora', p. 226-27.
- 18 Bauböck, 'Stakeholder Citizenship,' p. 2433, 2443-45.
- 19 EUDO Electoral Rights Database: <http://www.eudo-citizenship.eu/electoral-rights>, accessed 26 July 2014. The country reports from which the electoral data were collated were directly funded by the EUDO-Citizenship Observatory as supplementary material for a report on electoral rights by Arrighi et al., *Franchise and Electoral Participation*, which in turn was financed by the European Parliament (EUR 59,995). The views and findings of this paper are the authors' own and neither the European Union nor EUDO-Citizenship bears any responsibility for them or for any errors contained within the article. A full catalogue of the legislation consulted can be found in Arrighi et al., p. 105-30.
- 20 We use mid-2010 figures from a combination of UN Migrant Stock Data (United Nations), UN population estimates, and Eurostat data. The number of non-citizens in each state in mid-2010 is subtracted from population estimates to calculate the number of resident citizens. This is compared with the migrant stocks to calculate the size of the emigrant population as a percentage of the combined total of migrants and resident citizens. Note that all these figures reflect the whole population of all ages, and that the migration figures reflect country of birth rather than citizenship. However, no better source is available

that has consistent data, and it can be assumed that the relative proportions among those of voting age are fairly similar even if the absolute numbers may be lower.

21 Caramani and Strijbis, 'Discrepant Electorates', use the alternative definition of citizens as nationals plus resident non-nationals, but in this article we focus on the legal rather than social status of citizenship. The UN figures are used in preference to OECD figures as they are more recent and cover a greater geographical range of destination countries.

22 The only exception to this is the Netherlands, where for the vast majority of Dutch citizens abroad no past residence is required, but Dutch citizens in Aruba, Curaçao and Bonaire who are not civil servants or their family members must have at least 10 years' previous residence in 'mainland' Netherlands. The reason is to guard against double representation: the natives of these self-governing islands are Dutch citizens but are represented separately by Ministers Plenipotentiary in the Council of Ministers and the Council of State of the Kingdom of the Netherlands. The proportion of the overall electorate affected by this is miniscule, so it seems most appropriate to place the Netherlands in the category of states that do not have a past residency requirement, while noting this caveat.

23 See EUDO-Citizenship country reports for full details: <http://www.eudo-citizenship.eu/electoral-rights/electoral-rights-reports>, accessed 5 April 2014; *Danish Folketing Election Law*, Art. 2.

24 German Federal Election Law, Art. 12.

25 White and Cracknell, *Overseas Voters*.

26 See Honohan, 'Should Irish Emigrants have Votes?'; Grey, 'Neo-Institutionalization of Irish State-Diaspora Relations.'

27 The rules can be seen on the registration form:

[https://www.aboutmyvote.co.uk/register\\_to\\_vote/british\\_citizens\\_living\\_abroad/register\\_to\\_vote.aspx](https://www.aboutmyvote.co.uk/register_to_vote/british_citizens_living_abroad/register_to_vote.aspx), accessed 26 May 2014. Not surprisingly, the number of registered UK overseas voters has never exceeded 35,000, a minute proportion of an overseas population estimated to be approximately 4.4 million (see White and Cracknell, "Overseas Voters", 7-10.).

28 In the Maltese case, the requirement is moderated by subsidised air travel back to the country.

29 Charalambidou, *EUDO Citizenship Observatory: Cyprus*, p. 9.

30 This may contribute to the low turnout among registered voters in these cases: 16.9% in Portugal and 5.1% Croatia in 2011 (Portuguese Director General for Interior Administration; Croatia State Election Committee).

31 Greek Constitution, Art. 51.4; Christopoulos, *EUDO Citizenship Observatory: Greece*.

32 Dobрева, *EUDO Citizenship Observatory: Bulgaria*.

33 Spiro, 'Perfecting Political Diaspora', 226-27; Bauböck, 'Stakeholder Citizenship,' 2444-45.

34 Romania is not shown in Table 2 because it reports turnout figures in a manner that is not directly comparable with the other four states. In the 2012 parliamentary election, 60,044 voters cast ballots in the foreign constituency (number 43) in the Chamber of Deputies election, and slightly fewer (59,989) in the Senate election. However, 447,317 ballot papers were distributed, suggesting that the potentially eligible electorate is closer to that figure. The

total eligible electorate (as opposed to the number actually registered, which is very close to the number casting ballots) is not known. When turnout is taken into account, it took 15,011 external voters to elect a deputy and 29,995 to elect a senator, i.e. slightly fewer than for the parliament as a whole. If the eligible electorate is closer to the number of ballot papers given out, however, this would imply that the external voters are under-represented by a factor of approximately three times. See Romanian Central Electoral Office, *Rezultate finale*.

35 Some 411,758 voters were registered to vote abroad in 2011. Of these, the vast majority (263,435) lived in the neighbouring Bosnia-Herzegovina. Similarly, about three-quarters of the much smaller number who actually voted (16,912 out of 21,114) lived there. Croatia State Election Committee. *Konačni službeni rezultati*, p. 32-33.

36 Sajfert, *EUDO Citizenship Observatory: Croatia*, p. 3-4; Kasapović, 'Tko i kako predstavlja 'dijasporu'.'

37 Lafleur, *Transnational Politics*, p. 92-93.

38 Ibid., 136.

39 Spiro, 'Perfecting Political Diaspora', p. 226.

40 Scuto, *EUDO Citizenship Observatory: Luxembourg*, p. 2; Järve and Poleshchuk, *EUDO Citizenship Observatory: Estonia*, p. 5.

41 Scuto, *EUDO Citizenship Observatory: Luxembourg*, p. 2.

42 It averaged between 0.6% and 2.0% of all voters participating in the elections, compared with 14% of the national citizenry, during the first decade of independence (Maaten, 'Case Study: Estonia', p. 228).

43 Lafleur, *Transnational Politics*, p. 24-25.

44 Dobрева, *EUDO Citizenship Observatory: Bulgaria*, 14.

45 Hanley, *Europe and the Czech Parliamentary Elections*.