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Report on Political Participation of Mobile EU Citizens

Hungary

*Szabolcs Pogonyi**

Abstract:

In Hungary, resident non-national EU citizens are entitled to vote and stand as candidates in European Parliament elections. They are also entitled to vote and stand as candidates in local legislative and local mayoral elections in the municipality in which their residence is registered. EU citizens are obliged to submit a registration form in order to vote in these elections. Their access to the ballot is facilitated by information provided by the National Election Office. The process of registration could be made less burdensome, and provisions could be made for foreign language registration forms.

Non-resident Hungarian citizens are entitled to vote in national legislative elections, and to stand as candidates apart from in single-seat constituencies. The enfranchisement of non-resident citizens is normatively complicated because of nationality law reforms, which made individuals with historical ties but who have never lived in Hungary eligible to be citizens. Furthermore, postal voting is available for these non-resident citizens, whereas it is not available for resident citizens who are absentees. It would be easy and normatively desirable to extend postal voting to absentees to address this inequality of voting opportunities.

Absztrakt:

A Magyarországon tartózkodó uniós állampolgárok választhatnak és választhatók az Európai parlamenti választásokon. Az Európai Unió állampolgárai az önkormányzati választásokon is szavazhatnak és jelöltként is indulhatnak a regisztrált lakhelyük szerinti településen. Az EU állampolgároknak regisztrálniuk kell lakóhelyüket szavazati joguk gyakorlásához. A szavazásban a Nemzeti Választási Iroda tájékoztatói segítik őket. A választási regisztrációt megkönnyítenék az idegen nyelvű regisztrációs formanyomtatványok.

A magyarországi lakhellyel nem rendelkező magyar állampolgárok az országos listákra szavazhatnak, és jelöltként is indulhatnak. A Magyarországgal történelmi viszonyban álló, ám az ország jelenlegi területén lakhellyel korábban nem rendelkező külhoni állampolgárok szavazati joga összetett normatív kérdés. Egyebek között azért, mert a levélben történő szavazás csak a határon túl élő állampolgárok számára elérhető, a magyarországi lakóhellyel rendelkező, külföldön tartózkodó állampolgárok számára nem. Ezen egyenlőtlenség normatív szempontból kívánatos és egyszerű megoldását jelentené a levélszavazás jogának kiterjesztése a magyarországi lakhellyel rendelkező, külföldön tartózkodó állampolgárokra.

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1. Introduction

Non-resident Hungarian citizens have the right to vote and to stand as candidates in national elections. However, they are only entitled to vote for party lists and not for single-seat candidates. Similarly, they are only allowed to stand as candidates in constituencies that are not single-seat constituencies. Voter registration is not automatic but is required actively. Remote voting is possible as individuals may vote at embassies or via postal voting.

Non-citizen residents from the EU have the right to vote and to stand as candidates in European Parliament elections. They also have the right to stand in local legislative and local mayoral elections, conditional upon their residence being registered in the municipality in which they are voting or standing. Voter registration is not automatic for either European Parliament or local elections.

Table 1

Conditions for electoral rights of non-resident citizens and non-citizen residents

Type of voter	Election type	Right Voting	Right Candidacy	Automatic registration	Remote voting
Non-resident citizens	National Legislative	YES ¹	YES ²	NO	YES
Non-resident citizens	European Parliament	NO	NO	NA	NA
Non-citizen residents	Local Legislative	YES	YES ³	NO	NA
Non-citizen residents	Local Mayoral	YES	YES ⁴	NO	NA
Non-citizen residents	European Parliament	YES	YES	NO	NA

¹ Non-resident citizens may only vote for party lists and not for single-seat candidates.

² Non-resident citizens may not stand as candidates for single-seat constituencies in which only citizen residents can be elected.

³ Only EU citizens who are resident in the Hungarian municipality in which the election is held may stand as candidates.

⁴ Only EU citizens who are resident in the Hungarian municipality in which the election is held may stand as candidates.

1.1. Demographic characteristics of mobile EU citizens in the country: numbers, regional concentration, gender and age composition, employment status and main sectors of work

The statistics on the demographic characteristics of EU citizens in Hungary are somewhat limited and controversial. As in the case of other mobile EU citizens, we can assume that many non-national EU citizens in Hungary, particularly transmigrants with high cross-border mobility do not register as residents in the country. Thus, the official statistics on registrations may only be considered as rough estimates of the number of EU citizens residing habitually in Hungary. In accordance with the European Commission's reports on intra-EU mobility, the administrative registers are likely to underestimate the number of non-national EU citizens in Hungary.⁵

The Eurostat migration database contains information on the inflow of EU citizens.⁶ According to this dataset (see Table 2), since 2013, the annual inflow of EU citizens hovers slightly above 10,000. From these numbers, however, it is not possible to estimate the actual number of resident EU citizens in the country at present. The European Commission's 2017 annual report on intra-EU labour mobility summarising the Eurostat data puts the stock of working age (20-64) EU citizens in Hungary at 66,100.⁷ According to Eurostat's 2016 data, 44 % of non-national EU citizens in Hungary migrated because of family reasons, 24 % could not find work in their home countries, 10 % moved after being hired by a Hungarian company, and 5 % came because of educational reasons.⁸

Table 2
Number of EU citizens moving to Hungary
Source: Eurostat

	2013	2014	2015	2016
Hungary	10,448	10,537	10,549	10,532

To complicate matters, there are different statistics on the stock of intra-EU migrants. The first are the statistics of the Ministry of Internal Affairs published in the reports of the Immigration and Asylum Office. According to this dataset, in December 2017, 115,322 EU citizens were registered in Hungary.⁹ Unfortunately, the Ministry of Internal Affairs and the Immigration and Asylum Office do not have any information on the demographic composition and geographical distribution of non-national EU citizens in Hungary. Nonetheless, there is a consensus among migration experts working for the Central Statistical Office that I interviewed that this data is the best available approximation of the number of mobile EU citizens in Hungary, although even this number is likely to underestimate their actual number as many EU citizens do not register in Hungary.

⁵ Elena Fries-Tersch et al., "2017 Annual Report on Intra-EU Labour Mobility" (European Commission, 2018), 156, http://cite.gov.pt/pt/destaques/complementosDestqs2/Intra_EU_labour_mobility_2017.pdf.

⁶ Eurostat, "Immigration by Age Group, Sex and Citizenship [Migr_imm1ctz]."

⁷ Fries-Tersch et al., 164.

⁸ Eurostat, "First Generation of Immigrants by Sex, Citizenship, Duration and Reason for Migration [Lfso_14b1dr]."

⁹ "Statistics 2017" (Immigration and Asylum Office, 2018), <http://www.bmbah.hu/images/statisztikak/180131%20BMH%20Statisztika%20-%202017%20%C3%A9ves.xls>.

The electoral register also keeps track of the number of resident EU citizens in Hungary. As I will explain in section 2, the continuously updated electoral register includes all eligible voters in all types of elections. As explained in Section 2.2 below, the electoral register is created automatically on the basis of the official central address record. As non-national EU citizens with a registered domicile are included in the address record, the number of eligible EU nationals in municipal elections reveals the number of EU nationals with a domicile in Hungary. On 6 April 2018, their number stood at 108,994.¹⁰ This number is in line with the statistics published by the Immigration and Asylum Office.

There is a third dataset published by the Hungarian Central Statistical Office which is also used in the Eurostat tables.¹¹ According to these statistics (see Annex 1), in 2017, a total of 79,325 individuals from other EU countries were registered in Hungary. This number includes 2,781 individuals who were born as Hungarian citizens but have since lost their Hungarian citizenship (most likely as a result of naturalisation in another EU Member State that does not allow dual-citizenship).

The longitudinal data of the Hungarian Central Statistical Office suggest that, since 2012, the number of registered non-national EU citizens residing in Hungary has stabilised at around 80,000. The composition of non-national EU citizens in Hungary has, however, been constantly changing. Ever since Hungary's accession to the European Union, the number of non-national residents from the EU-15 countries has grown steadily. From January 2005 to January 2017, their number has grown from 9,714 to 40,427. Until 2011, similar tendencies were present in the case of migrants from the EU-13 states. These trends changed after 2011, as a result of the Hungarian government's decision to introduce facilitated non-resident citizenship for Hungarians living outside the country. Due to the new citizenship legislation, ethnic Hungarians from the neighbouring EU Member States who had already resided in Hungary could naturalise in Hungary without having to undergo the regular naturalisation process, including a difficult citizenship exam. Due to these naturalisations, the number of EU citizen residents has been on the decline since 2011. Most importantly, the number of registered Romanian citizens has sunk from 76,878 in 2011 to 24,040 in 2017. The total number of registered non-national EU citizens in Hungary peaked in 2011 at 125,686 and has since gone down to 79,325 in 2017. All this, however, is more of a reflection of naturalisation of ethnic Hungarians from Romania than an indication of changing migration trends.¹²

The data of the Hungarian Central Statistical Office offer some insights into the demography of EU citizens living in the country. Non-national EU citizens in Hungary are distributed rather unevenly. Unsurprisingly, the geographical distribution of EU citizens reflects the economic development of Hungarian regions. There is a clear correlation between the number of resident EU citizens and economic productivity. In 2017, nearly half of all EU citizens resided in the region of Central Hungary that includes Budapest and the Pest county that together contribute as much as 50 % of the Hungarian GDP.¹³ More than one-third of EU

¹⁰ National Election Office, "Választópolgárok száma választásonként," (Number of eligible voters) Valasztas.hu, 2018, <http://www.valasztas.hu/valasztopolgarok-szama-valasztastipusonkent>.

¹¹ Eurostat, "Population on 1 January by Age Group, Sex and Citizenship [Migr_pop1ctz]."

¹² Central Statistical Office, "Új magyar állampolgárok. Változások az egyszerűsített honosítási eljárás bevezetése után." (New Hungarian Voters. Changes after the introduction of facilitated citizenship) <http://www.ksh.hu/docs/hun/xftp/idoszaki/pdf/ujmagyarallampolgarok.pdf>, 2017.

¹³ Central Statistical Office, "Bruttó hazai termék (GDP) (2000-)," (Gross domestic product) n.d., https://www.ksh.hu/docs/hun/xstadat/xstadat_eves/i_qpt012b.html.

citizens are concentrated in the capital which provides around one-third of the Hungarian GDP.

In terms of age, the ratio of EU citizens to all foreign individuals residing in Hungary is the highest in the 60+ age group (Table 3). While EU citizens on average make up half the number of other age cohorts, their ratio in the 60+ group is above 70 %. On the other end of the scale, the ratio of young (0-14 year old) EU citizens is somewhat lower than in other cohorts. According to the Hungarian Central Statistical Office's data, the biggest group of EU citizens residing in Hungary is the cohort of 25-29 year olds. But, as stated above, these statistics may well be misleading. The high ratio of young EU citizens could be explained by the fact that students with EU citizenship studying in Hungary need to register to enroll in universities and become eligible for student benefits.

Table 3

Foreign citizens residing in Hungary

Data on the foreign citizens residing in Hungary on 1 January 2017

Source: Hungarian Central Statistical Office

Age group	Country of citizenship		
	Total	EU-15	EU-28
Total Age group	151132	40427	79325
0-14	13167	1784	4721
15-19	6989	1033	2182
20-24	16560	4109	7497
25-29	20390	5140	11379
30-34	16540	2932	8622
35-39	13862	2292	7203
40-44	12844	2334	6407
45-49	11861	2740	6091
50-54	8959	2703	4559
55-59	7769	2914	4563
60-X	22191	12446	16101

As for gender, the number of male EU citizens is higher in all age cohorts than the number of women (Table 4). In the Hungarian Central Statistical Office's dataset, out of the total of 79,325 non-national EU citizens that registered in 2017, 46,213 were male, and 33,112 were female. Interestingly, until 2006, women were in the majority among registered EU citizens. Since then, the ratio of men has been on the rise, and the gap between the number of men and women has broadened.

Table 4

Foreign citizens residing in Hungary

Data on the foreign citizens having a permit residing in Hungary on 1 January 2017

Sex	Country of citizenship		
	Total	EU-15	EU-28
Total	151132	40427	79325
Male	85131	24006	46213
Female	66001	16421	33112

According to the annual report of the Education Authority,¹⁴ in the academic year 2016/2017, a total of 10,201 students from EU countries were enrolled in Hungarian higher education institutions. Around half of them (4,885) were BA students, another 4,255 were admitted to 5-year MA degree programs, 738 to graduate (MA and MSc) programs, 100 to postgraduate training programs, and 268 to doctoral (PhD and DLA) programs.

The most recent employment data on non-national EU citizens is from 2016. According to the statistics published by the National Employment Service, 7,283 non-EU citizens had work permits in Hungary.¹⁵ Out of them, 4,309 originated in non-European countries, 3,063 in non-EU member state European countries, and another 1,824 in neighboring non-EU states. In addition to those who had work permits, 10,553 foreign employers who did not need work permits were reported by employers in Hungary in 2016.¹⁶ 82 % of these registered foreign employees (8,487) were from the EU. The largest number of EU citizens came from Romania (5,663), followed by Slovakia (1,435) and the United Kingdom (680). The number of registered EU employees exceeded 250 in the case of Germany, Italy, Poland and France.

More than half of the 10,553 reported employees that do not need work permits (including the 8,487 EU citizens) worked in Budapest. More than one-third of the jobs taken by registered workers required a university education, and half of them were manual jobs. The most popular sectors are administration and service (19.5 %), agriculture and forestry (15.9 %), processing industry (15.2 %), informatics and telecommunications (14.7 %), and counselling (6.3 %). Unsurprisingly, in terms of qualification, EU citizens registered in 2016 are highly polarised. 3,940 of the total 10,553 registered foreign employees had tertiary education, while 3,578 had only finished primary school.¹⁷ The overall employment rate of working age migrant EU citizens residing in Hungary is slightly above the employment rate of Hungarian citizens. While the employment rate of native-born 20-64 year old Hungarians stands at 75.2 %, the employment rate of the same EU migrant age cohort is 81.8 %.¹⁸

¹⁴ Oktatási Hivatal, "Felsőoktatási statisztikai adatok," (Higher education statistics) n.d., https://www.oktatas.hu/felsooktatasi/kozerdeku_adatok/felsooktatasi_adatok_kozzetetele/felsooktatasi_statisztikai.

¹⁵ Péter Putnoki, "A külföldi állampolgárok magyarországi munkavállalásának főbb sajátosságai," (The characteristics of employment of foreign citizens in Hungary) 16.

¹⁶ Péter Putnoki, "A külföldi állampolgárok magyarországi munkavállalásának főbb sajátosságai," (The characteristics of employment of foreign citizens in Hungary) Ministry of National Economy, 2017., 11, https://nfsz.munka.hu/Lapok/full_afsz_kozos_statisztika/stat_kulf_munkavall_mon/content/stat_kulf_mvall_mo_adatok_2016.pdf.

¹⁷ Péter Putnoki, "A külföldi állampolgárok magyarországi munkavállalásának főbb sajátosságai," (The characteristics of employment of foreign citizens in Hungary) 15.

¹⁸ Eurostat, "Activity Rates, by Place of Birth and by Age Group, 2016 (%) MI17.Png."

1.2. Brief summary of electoral rights (voting and candidacy rights) of non-citizen residents (EU and TCN) and non-resident citizens (residing in EU and in third countries)

Non-citizen residents

In Hungary, voting rights in national (Parliamentary) elections are strictly tied to citizenship.¹⁹ Thus, in national elections, non-national residents cannot vote, while non-resident Hungarian citizens defined as “part of the political community”²⁰ can.

Hungary was one of the first countries to fully implement²¹ the EU Council Directives on local and European Parliament elections. Since Hungary’s accession to the European Union, EU citizens residing in Hungary have the right to vote and run as a candidate in European Parliament elections, as well as municipal elections. EU citizens enjoy active, as well as passive voting rights both in European Parliament and municipal elections. In local elections, EU citizens living in Hungary can run as representatives, as well as mayors.²² In European Parliament elections, citizens of other EU Member States resident in Hungary can run as candidates.²³ Their voting rights are, of course, conditional on meeting all the eligibility criteria in both countries, that is, in their country of citizenship, as well as Hungary, the country of residence.²⁴

Third-country nationals with residence in Hungary (including registered migrants and refugees) can also vote in local elections,²⁵ but not in European Parliament elections.

Participation in referendums is tied to voting rights. Thus, everyone who has the right to vote in national elections can also vote in national referendums, and everyone who has the right to vote in local elections can participate in local referendums.²⁶

Non-resident citizens

In general, non-resident citizens are entitled to vote in national elections and referendums, but cannot vote in European Parliament and municipal elections.²⁷ It must, however, be noted that most expatriates retain their permanent address in Hungary, and thus are formally absentees even after several years of residing abroad. Thus, expatriates who do not register their absence are not taken off the electoral registry, and so can also vote both in European Parliament and local elections.

Since 2011, descendants of former Hungarian citizens can obtain facilitated Hungarian citizenship without residence in the country. Up to now, more than one million

¹⁹ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (1).

²⁰ “Act CCIII OF 2011 on the Elections of Members of Parliament.”

²¹ “Act C of 1997 on Election Procedure”; “Act CXIII of 2003 on the Election of Members of the European Parliament.”

²² “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (2).

²³ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (2).

²⁴ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (6); “Act CXIII of 2003 on the Election of Members of the European Parliament,” Section 2/A.

²⁵ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (3).

²⁶ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (7).

²⁷ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII.

Hungarians outside of Hungary have acquired citizenship.²⁸ These individuals (along with expatriates who have registered their long-term absence and thus have been taken off the residence registry) have partial voting rights. Non-resident Hungarians can vote only for the party lists in the national elections, but not for single-seat candidates.²⁹ Interestingly, the right to run as a candidate is not linked to residence in Hungary. All voters, including non-resident Hungarians listed in the electoral registry, are eligible to run as candidates.³⁰ As a result, non-resident Hungarian citizens may run as candidates in the Hungarian national elections.

Expatriate and absentee citizens that have not given up their formal residence in Hungary can also vote in European Parliament and local elections from abroad. Non-resident citizens, however, cannot vote or run in local and EP elections.³¹

Voter registration

In general, voters with a domicile in Hungary need to register only if they want to vote outside of the voting district of their permanent residence. Resident Hungarian citizens who vote in their district of residence do not need to register for national, EP or local elections, as the central electoral registry is generated automatically on the basis of the national address registry.³² The only exception to this is that those who want to vote for the candidates of recognised historical minorities need to submit a registration to vote.³³ Voting outside the voting district of residence also requires registration.

Resident EU nationals, as well as resident third-country nationals (immigrants, as well as refugees) can run and vote in Hungarian EP elections and municipal elections.³⁴ Resident non-national EU citizens that wish to vote in EP elections need to register by declaring that they will vote in Hungary (for the Hungarian EP lists), rather than in their countries of citizenship.

Non-resident Hungarians need to register to vote in the national elections and participate in national referendums.³⁵

²⁸ Zoltan, “Hungary Citizenship Plan Reaches 1 Million Mark in Boost for Orban.”

²⁹ “Act CCIII OF 2011 on the Elections of Members of Parliament,” Art. 12 (3).

³⁰ “Act CCIII OF 2011 on the Elections of Members of Parliament,” Art. 2 (2); Art. 5 and Art. 6.

³¹ “The Fundamental Law of Hungary, 25 April 2011.,” Art-XXIII (2).

³² “Act XXXVI of 2013 on Electoral Procedure,” Section 81.

³³ “Act XXXVI of 2013 on Electoral Procedure,” Section 85; “Act CCIII OF 2011 on the Elections of Members of Parliament,” Section 12 (2).

³⁴ “The Fundamental Law of Hungary, 25 April 2011.,” Art. XXIII (2) and (3).

³⁵ “Act XXXVI of 2013 on Electoral Procedure,” Section 85 (2).

2. Non-national EU citizens' franchise in EP and local elections

2.1. Overview of relevant administrative regulations

The administrative regulations on non-resident voting are specified in Act XXXVI of 2013 on Electoral Procedure. Before every election, the Ministry of Justice specifies the tasks of the relevant authorities in a decree. These decrees reiterate the procedural rules outlined in Act XXXVI on Electoral Procedure. Before an election, the National Election Office publishes circulars that outline and explain the tasks (registration and vote counting procedures) of local election committees as outlined in the Act on Electoral Procedure.

2.2. Voter registration

In Hungarian elections, the electoral register is generated from the central address records. By default, residents, including non-citizens with a Hungarian domicile who are eligible to vote, will be automatically registered on the electoral roll. As a rule, individuals who do not have a domicile in Hungary are not by default included and need to register.³⁶

Resident non-national EU citizens need to register to vote in European Parliament elections. EU citizens need to submit a form to be included in the electoral register even if they are listed in the central register that includes all residents. The main purpose of this registration requirement is to make sure that EU citizens who want to vote in the Hungarian European Parliament elections (rather than as absentees in the European Parliament election of their country of citizenship) declare that they will practise their active voting rights in Hungary and only Hungary. EU citizens do not need to provide any documents, but only personal information (full name, full name at birth, place and date of birth, mother's full name, national identification number printed on residence cards, and the address to which the National Election Office's decision should be sent). EU citizens running as candidates in local elections also need to declare that they have not been barred from exercising their voting rights in their country of citizenship.³⁷

The registration procedure is the same for non-resident Hungarian citizens who want to vote in national elections and EU citizens who want to vote in European Parliament elections. The registration form can be submitted online, by post or in person to local election offices³⁸ up to 16 days before the election. As part of the registration, non-national EU citizens must declare that they want to exercise their right to vote in the European Parliament elections only in Hungary. In addition, they need to inform the National Election Office of the name of the settlement or constituency where the applicant was last entered into the register in the state of their citizenship.³⁹ Up to ten days before the European Parliament election day, citizens of other EU Member States listed in the electoral register may also

³⁶ "Act XXXVI of 2013 on Electoral Procedure," Section 84.

³⁷ "Act XXXVI of 2013 on Electoral Procedure," Section 307/H.

³⁸ "Act XXXVI of 2013 on Electoral Procedure," Section 91 (3).

³⁹ "Act XXXVI of 2013 on Electoral Procedure," 2013, para. 334 (1) b.

request to have their registration amended so as not to be included on the electoral roll for the election of the Members of the European Parliament.⁴⁰ Thus, in this situation, the inclusion of EU nationals in the election register will entitle them to vote only in local elections.

The electoral register is maintained and updated on a daily basis.⁴¹ Thus, the actual number of eligible voters in all kinds of elections are available online. On 7 April 2018, the numbers are as shown in Table 5.

Table 5
Registration statistics

source: <http://www.valasztas.hu/valasztopolgarok-szama-valasztastipusonkent>
<http://www.valasztas.hu/valasztopolgarok-szama-valasztastipusonkent>

	Hungarian citizens with domicile in Hungary	Non-resident Hungarian citizens	EU citizens with Hungarian domicile	Third country nationals with Hungarian domicile (immigrants, refugees)	Total
National (Parliamentary) elections and national referendums	7,934,117	378,384	N/A	N/A	8,312,501
European Parliamentary elections	7,934,117	N/A	1446	N/A	7,935,563
Municipal elections and local referendums	7,934,117	N/A	108,994	24,415	8,067,526

⁴⁰ According to the official Hungarian version of the Act XXXVI of 2013 on Electoral Procedure, citizens of other EU Member States may register their request concerning amended registration as outlined here. The official English translation of the same law claims that the deadline of submitting requests on amended registration is 15 days before the election (as opposed to the Hungarian version, in which 10 days are mentioned).

⁴¹ “Act XXXVI of 2013 on Electoral Procedure,” para 76 (2) a.

2.3. Information during the election campaign

The provision of information to voters, the maintenance of the electoral register, as well as the management of the election is carried out by the National Election Office and the local election offices that are also coordinated by the National Election Office. The National Election Office is an autonomous government agency, subject only to the law that it is to fulfill central tasks related to preparing and conducting elections. The National Election Office provides impartial information to voters, candidates and nominating organisations, aids the activity of the National Election Commission, provides for the material and technical conditions for the implementation of elections, and conducts the operation of election offices on territorial and local level. The Office is headed by its president, who is appointed by the President of the Republic on the proposal of the Prime Minister.

The National Election Office is responsible for informing all voters listed in the electoral register 58 days before the election about their allocation to a polling district.⁴² The informational letter should be sent out at least 48 days ahead of the election with the relevant personal data of the voter (full name, place and date of birth, address) that will be used for identification at the voting station. The letter should contain the address and number of the polling district as well. In addition, the letter informs voters if the polling district is accessible for the disabled. Disabled voters may submit a request for special, simplified information leaflets, as well as Braille language election information and voting slips (the application form, however, is available only in Hungarian⁴³).

By 21 January in the year of European Parliament elections, the National Election Office informs EU nationals with a domicile in Hungary about their right to register in the election registry.⁴⁴ All EU citizens registered in the central address record are sent information on the election registration procedure, as well as a copy of the registration form. Currently, the National Election Office's website has general information on the registration requirements for EU nationals in English, German and French. The registration form, however, is available only in Hungarian.⁴⁵ As opposed to the registration form for non-resident Hungarian citizens, no detailed guidelines are provided in English or other foreign languages. Interestingly, before the 2004 European Parliament election, the National Election Office published information on registration for EU citizens in 18 foreign languages on its website.⁴⁶

After the successful registration of EU citizens with a Hungarian domicile, the National Election Office supplies data to the EU Member States' authorities by the 15th day before the day of voting at the latest about the citizens of each country who are listed in the

⁴² "Act XXXVI of 2013 on Electoral Procedure," para 57.

⁴³ <http://www.valasztas.hu/documents/538536/663111/Nemzetiségi+választópolgárként+történő+nyilvántartásba+vétel%2C+fogyatékossggal+élő+választópolgár+segítése%2C+személyes+adatok+kiadása.pdf/a4a8ff61-77b3-4c71-9ddb-eb0f09d69f1f>

⁴⁴ "17/2013. (VII. 17.) KIM rendelet a központi névjegyzék, valamint egyéb választási nyilvántartások vezetéséről" (Ministry of Public Administration and Justice decree on the administration of the central electoral registry and other registries) (2013), para 6. (6).

⁴⁵ <http://www.valasztas.hu/documents/538536/663111/Névjegyzékbe+vétel+vagy+törlés+a+névjegyzékből+az+Európai+Parlament+tagjainak+választásán+-+kérelem+papír+alapon+a+magyarországi+lak.pdf/77a68f4c-595f-4b71-bc7e-7f4eedbc86c>

⁴⁶ http://www.valasztas.hu/ep2004/04/hu/informaciok/20_10.html

polling district electoral register.⁴⁷ The National Election Office provides the competent central organs of the EU Member States with the following personal data: name, gender, place and date of birth, citizenship and the name of the settlement or constituency where the EU citizen concerned was last entered into the local electoral register in the state of citizenship. The registration form submitted by EU nationals, as well as the National Election Office's decision on the application are archived and kept for one year (in case of rejection), or until the applicant is taken off the election register.

In addition to the National Electoral Office that informs the public and sends a special informational letter to EU citizens with a Hungarian domicile, the Hungarian Civil Liberties Union also offers help to EU nationals who are eligible to register and vote in Hungary in European Parliament elections. The website of the Hungarian Civil Liberties Union provides detailed information and step-by-step guidelines for EU citizens with a domicile in Hungary on voter eligibility issues, as well as the registration process. The information is provided in the Hungarian⁴⁸ and English⁴⁹ languages.

2.4. Political parties and candidacy rights

In European Parliament election campaigns, Hungarian parties do not target citizens of other EU Member States with residence in Hungary. One of the reasons for this is the low number of registered EU citizen voters in Hungary. While the potential pool of non-citizen voters is relatively large, only a few citizens of other EU Member States register as voters in Hungarian European Parliament elections. As of 7 April 2018, out of the 108,994 EU citizens with Hungarian domicile, only 1,446 are registered as voters in Hungarian European Parliament elections.

As for passive voting rights of EU citizens, Act CXIII of 2003 on the election of Members of the European Parliament stipulates that “with regards to the election of members of the European Parliament the right to vote and to stand for election shall be granted to those having domicile in Hungary”.⁵⁰ Standing for election, however, is conditional on not having been incarcerated on final judgement, and not receiving forced medical treatment based on a decision issued during a criminal procedure.⁵¹

In addition to meeting the requirements set out for candidates with Hungarian citizenship, nationals of other EU Member States that are running as candidates in European Parliament elections must submit a declaration stating that the candidate is standing for election to be a member of the European Parliament in Hungary.⁵² Upon receiving the declaration, the National Election Office informs the authorities of the candidate's state of citizenship of the declaration of candidacy in Hungary, and requests confirmation that the candidate is not subject to any measures excluding candidacy in his or her state of

⁴⁷ “Act XXXVI of 2013 on Electoral Procedure,” para 335.

⁴⁸ <https://tasz.hu/politikai-reszvetel/europai-parlamenti-valasztasok-1x1>

⁴⁹ <https://hclu.hu/en/articles/ep-elections-faq-for-eu-citizens-in-hungary-1>

⁵⁰ Act CXIII of 2003 on the election of members of the European Parliament, 2/A (1)

⁵¹ Act CXIII of 2003 on the election of members of the European Parliament, 2/A (2)

⁵² Act XXXVI of 2013 on Electoral Procedure para 339 (1) b

citizenship.⁵³ The National Election Commission will not register non-national candidates that are registered as candidates in another EU Member State, or that do not have the right to vote in their countries of citizenship.⁵⁴ If the candidacy is approved by the National Election Commission, the National Election Office informs the competent authorities of the candidate's country of citizenship within three days after the registration of the candidate becomes final.

Until now, no non-nationals have been elected as members of the European Parliament in Hungary. In 2004 and 2009, there were no non-national candidates running in the European Parliamentary elections. In 2014, a Polish candidate was the only non-Hungarian candidate.⁵⁵ A recent European Commission report, without specifying the source of the information, claims that in Hungarian local elections, 41 EU nationals have run as candidates, and 5 have been elected.⁵⁶

2.5. Turnout

European Parliament election turnout statistics are published by the National Election Office. The National Election Office's report for the 2014 EP election including the data on the number and turnout of EU citizens with domicile in Hungary is available online (both in Hungarian and English).

In the 2004 European Parliamentary election, 1,956 EU citizens registered to vote in Hungary. In Hungary's second European Parliament election in 2009, the number of registered voters with citizenship of other EU Member States was 5,542 (out of 105,000 EU citizens with domicile in Hungary).⁵⁷ Nearly half of them were Romanian citizens.⁵⁸ In the 2014 European Parliament election 1,619 citizens of other EU Member States were included in the election register.⁵⁹

The actual turnout statistics for EU citizens voting in the European Parliamentary and local elections in Hungary are unknown. The reason for this is that the citizenship of voters is not included in the polling district electoral registers, and thus the turnout of non-EU citizens cannot be measured.⁶⁰

⁵³ Act XXXVI of 2013 on Electoral Procedure para 339 (2)

⁵⁴ Act XXXVI of 2013 on Electoral Procedure para 340

⁵⁵ Response of Ilona Pálffy, President of the National Election Office to our public data request, 2018. 07, 13.

⁵⁶ European Commission, "Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on the Application of Directive 94/80/EC on the Right to Vote and to Stand as a Candidate in Municipal Elections," 7.

⁵⁷ <http://www.valasztas.hu/ep09vt/v1.html>

⁵⁸ Index.hu, "5601 Uniós Polgár Szeretne Magyarországon Szavazni," 2009,

<https://index.hu/kulfold/eu/2009/valasztas/euszav/>.

⁵⁹ Ilona Pálffy, "Report by the President of the National Election Office on the Organisation and Implementation of the State Duties Related to the 2014 European Parliament Elections Held on 25 May 2014."

⁶⁰ Response of Ilona Pálffy, President of the National Election Office to our public data request, 2018. 07, 13.

3. Non-resident citizens' franchise in national and EP elections when residing in other EU Member States

3.1. Overview of relevant administrative regulations

The administrative regulations on non-resident voting are specified in Act XXXVI of 2013 on Electoral Procedure. Before every election, the Ministry of Justice specifies the tasks of the relevant authorities in a decree. These decrees reiterate the procedural rules outlined in Act XXXVI on Electoral Procedure. Before the election, the National Election Office publishes circulars that outline and explain the tasks (registration and vote counting procedures) of local election committees as outlined in the Act on Electoral Procedure.

While voting in the European Parliament elections is conditional on residence in Hungary rather than citizenship, non-resident Hungarian citizens can vote in the national (Parliamentary) elections after registration. Until the 2011 overhaul of the electoral system, non-resident Hungarian citizens could vote either in national elections or EP elections. As part of the Fidesz government's project of national reunification beyond the borders, descendants of former Hungarian citizens who speak the Hungarian language are now offered facilitated Hungarian citizenship. Up to now, more than one million non-resident Hungarians have naturalised under the new law. In addition to citizenship, non-resident Hungarians have also been offered partial voting rights. According to the current electoral law, non-resident citizens can only vote for the party lists. Because the new law requires Hungarian residence only in the case of candidates running in single seat constituencies, the electoral law has opened up the possibility of electing non-resident Hungarians on the national party lists. Thus, non-resident Hungarian citizens have partial passive voting rights in national elections, but they cannot vote or run as a candidate in European Parliament elections or municipal elections in Hungary.

Non-resident Hungarian citizens need to register to participate in national elections. They can vote by mail, but postal votes may also be collected and submitted at embassies or even at voting districts in Hungary. This means in practice that individuals or organisations can collect the sealed ballots from voters in the neighboring countries and submit them on behalf of the voters at embassies. Absentees (Hungarian citizens with a Hungarian domicile abroad at the time of the European Parliament election) can vote only at embassies.

The provision of information to non-resident voters, the maintenance of the electoral register, and the management of the election are carried out by the National Election Office and the local election offices that are also coordinated by the National Election Office. The National Election Office is responsible for informing all non-resident citizens in the last October before the next national election about voter registration. The Office also sends them the voter registration form. Non-resident citizens who have already been registered as voters are sent another form to update their contact information and personal data. All letters sent to non-resident Hungarians residing in countries that do not recognise dual citizenship are delivered to the respective consulates.

Those registered non-resident voters that have requested to pick up their voting package in person are informed 30 days before the election about the address where they can pick up the voting package. In cooperation with embassies, the National Election Office provides non-resident Hungarian citizens with information on registration and voting related matters.⁶¹ The National Election Office is also responsible for sending the voter registration form to all newly naturalised non-resident Hungarians, and also to those non-resident Hungarians who request a Hungarian passport. The information leaflet provides detailed help on the filling out of the registration form in English.

3.2. Voter Registration

In general, individuals with residence in Hungary who do not need to register as eligible voters are automatically included in the electoral register (Table 6). In the case of national elections, voting is conditional not only on residence but also on Hungarian citizenship, and so non-citizen residents are removed from the electoral register. Hungarian citizens whose permanent address is abroad but have temporary residence in Hungary are not included in the electoral register created on the basis of the official registry, and so they have to register before an election.⁶² The registration is valid for ten years. Resident Hungarian citizens who wish to vote for minority parties also need to register.

Table 6

Registration requirement in national elections

Source: <http://www.valasztas.hu/web/national-election-office/right-to-vote1>
<http://www.valasztas.hu/web/national-election-office/right-to-vote1>

Domicile	Temporary residence	Type of enrollment
Hungarian address	Hungarian address	Automatic
Hungarian address	None	Automatic
Foreign address	Hungarian address	Registration
Foreign address	None	Registration
None	Hungarian address	Automatic
None	None	Registration
If not registered in the address records		Registration

⁶¹ 17/2013. (VII. 17.) KIM rendelet a központi névjegyzék, valamint egyéb választási nyilvántartások vezetéséről, para 6 (2) and (3).

⁶² <http://www.valasztas.hu/kinek-kell-regisztralnia->

The registration procedure is the same for non-resident citizens who want to vote in national elections and EU citizens who want to vote in local or European Parliament elections. The registration form can be submitted online, by post, electronically or in person⁶³ to local election offices⁶⁴ up to 16 days before the election. Applicants for voter registration do not need to provide documents, but only personal data (full name, full name at birth, place and date of birth, mother's full name, and, if available, the national identification number). In addition, non-resident registrants need to specify an address to which the National Election Office should send the voting package. Non-resident voters may request that their voting packages are sent to one of the 22 border settlements in Hungary, or 12 foreign representations in Croatia, Romania, Serbia, Slovakia, and Ukraine specified in a decree.⁶⁵

After checking the applicant's eligibility, the National Election Office decides about the application and informs the applicant. The National Election Office's decision is made within five days, but after the date of the election is announced, the National Election Office decides upon each application that arrives by 4PM on the day of receiving the registration forms. Applicants are informed about the decision in e-mail, by post or by fax.⁶⁶ The registration is valid for 10 years. The 10-year period is automatically renewed if non-resident voters vote or change their personal data (name, address, etc.) in the registry.

As mentioned above, the electoral register is maintained and updated on a daily basis. Thus, the actual number of eligible voters in all kinds of elections are available online. The National Election Office's statistics on registered non-resident voters is broken down by country based on their contact address, with the data from countries that do not allow dual citizenship being published under a combined heading.⁶⁷

3.3. Turnout

The enfranchisement of non-resident Hungarians has been subject to heated debates ever since 2010. When the Fidesz government introduced the facilitated non-resident naturalisation procedure in 2010, it initially said that non-resident citizens would not be entitled to vote.⁶⁸ By 2011, the right-wing Orbán government nonetheless enfranchised non-resident voters in the name of what it called the 'national reunification beyond the borders', a nation-building project that was intended to remedy the consequences of the 1920 Trianon Peace Treaty by symbolically and institutionally uniting Hungarians living in Hungary and the neighboring countries. As explained above, non-resident Hungarian citizens can vote for the party lists, but not in single-seat constituencies.

Non-resident voting was staunchly rejected by the left-wing opposition parties. They were concerned that non-resident Hungarians who do not pay taxes would have the chance to influence the results of elections, which would be contrary to basic norms of democracy.

⁶³ Act XXXVI of 2013 on Electoral Procedure para 91 (2)

⁶⁴ "Act XXXVI of 2013 on Electoral Procedure," Section 91 (3).

⁶⁵ 17/2013. (VII. 17.) KIM rendelet a központi névjegyzék, valamint egyéb választási nyilvántartások vezetéséről, appendix 1.

⁶⁶ Act XXXVI of 2013 on Electoral Procedure para 95 (3)

⁶⁷ Act XXXVI of 2013 on Electoral Procedure para 76 (2) a

⁶⁸ Pogonyi 2017 94.

According to these critiques, the right-wing coalition wanted to entrench its power by offering voting rights to the members of the diaspora, assuming that they would honor their enfranchisement by supporting the governing parties. In addition, some worried that offering external voting rights could be seen as an infringement of the sovereignty of neighboring states and could create inter-state tension. Fidesz, on the other hand, claimed that the left's unwillingness to support the enfranchisement of Hungarians living beyond the borders is proof of the left's anti-nationalist, if not anti-Hungarian, ideology.

Up to the April 2014 election, 195,338 non-resident Hungarian citizens had registered to vote. The vast majority of the registered non-resident voters were from the neighboring countries.⁶⁹ The highest number of registrations were submitted in Romania (99,628), followed by Serbia (29,144). Romania and Serbia accounted for 66 % of all non-resident registrations. Around 60 % of newly naturalized Hungarians had the right to cast their votes in April 2014. The actual number of votes cast, however, was significantly lower. Due to the overcomplicated voting procedure, only 128,429 valid postal votes were counted. Fidesz received an overwhelming 95.5 % of these votes, while Jobbik had 2.3 % and the left-wing alliance had 1.2 %. On average, 87,901 votes on the national party list could be converted into one seat. Thus, the non-resident constituency's votes secured Fidesz one seat in parliament. In the election, Fidesz won 133 seats – exactly the number necessary for a two-thirds absolute majority. Without the votes from non-resident Hungarian citizens, Fidesz could not have the two-thirds majority that is required to amend the Fundamental Law and other cardinal laws.

In the 8 April 2018 national election campaign, left-wing parties and left-wing media claimed that thousands of non-resident Hungarian citizens from Ukraine acquired residency in Eastern Hungarian municipalities so that they could participate in the election as full voters. The left accused Fidesz of importing these voters to boost their support. By the registration deadline before the national election, 378,449 non-resident voters were included in the electoral register.⁷⁰ In the 2018 election, Fidesz secured 133 seats again. This time, 96.2 % of the 225,025 non-resident votes counted went to Fidesz. In an early comment on the impact of non-resident votes, Deputy Prime Minister Zsolt Semjén thanked non-resident voters for securing Fidesz “2-3 votes”.⁷¹ But Deputy Prime Minister Semjén's calculation proved to be utterly wrong. Despite the fact that the number of non-resident votes increased significantly, they did not count in the distribution of the mandates. The reason for this is that the party list mandates are calculated according to the D'Hont method. If the votes of non-resident voters were not counted, Fidesz would have received exactly the same number of seats due to very high turnout in Hungary.

⁶⁹ Szabolcs Pogonyi, *Extra-Territorial Ethnic Politics, Discourses and Identities in Hungary* (Palgrave Macmillan, 2017), 94.

⁷⁰ <http://www.valasztas.hu/levelszavazas-jegyzokonyv>

⁷¹ *Maszol.ro*. 2018. April 18, <http://www.maszol.ro/index.php/kulfold/95188-koszonjuk-semjen-zsolt-szerint-2-3-mandatmot-kaptak-a-hataron-tulrol>

4. Conclusion

The Hungarian law on European Parliament Elections, as well as the law on local elections, offer both active and passive voting rights for EU citizens with Hungarian domicile. The National Election Office informs all eligible EU citizens of their right to register and vote in EP and municipal elections. Nonetheless, only relatively few resident non-national EU citizens register and vote. This may be explained by the fact that they prefer to vote in their countries of citizenship as absentees rather than in Hungary. From a normative point of view, this is not necessarily a problem. Mobile EU citizens may have stronger attachment to and higher stakes in their countries of citizenship than in Hungary even if they are registered as residents here. It must, however, be acknowledged that despite efforts to inform resident non-national EU citizens of their right to register and vote in Hungary, registration could be made less burdensome. Most importantly, foreign language registration forms could be helpful for EU citizens who want to vote in Hungary. This could potentially increase the number of non-national EU citizens who register for the European Parliament elections in Hungary.

The enfranchisement of non-resident Hungarians is far more problematic both from a normative and a political perspective. Normatively, it is questionable if citizens should vote without having ever lived in the country. In the 2014 election, the votes of non-resident citizens secured Fidesz an additional seat without which Fidesz would not have had a two-thirds majority. Interestingly, in the April 2018 election, an even higher number of non-resident Hungarians voted than in 2014.

The administration of non-resident voting is also problematic. Voter registration for non-resident citizens is valid for ten years, but it is automatically renewed if they vote or if voters change their personal data. As the Hungarian government has no access to the civil registries of foreign states, deceased non-resident voters are not automatically deleted from the Hungarian voter registry. As many of the non-resident voters indicated that they wanted to receive the ballot slips by post, there is no guarantee that votes of deceased voters are not submitted by relatives or others. The provision that non-resident votes can be collected and submitted at foreign embassies also raises concerns. There is no guarantee that votes collected by someone (including activists of ethnic parties in the neighboring states) will not be lost or misused. These problems, however, are not easy to resolve. One possible remedy would be to require new registration from non-resident voters at every election or referendum. This procedure would be very costly and could also disincentivise non-resident voters from participating in an election. Another alternative would be to abandon postal voting, but this would again discourage non-resident voters from casting their ballot.

While postal voting in the national election is available for citizens who do not have a permanent address in Hungary, absentees (voters with permanent residence who are temporarily away on election day) need to cast their votes in person at embassies. It is a normatively highly controversial distinction as it offers non-resident Hungarians who have never lived in the country easier access to the ballot box than Hungarians with much stronger and more genuine ties to the country. For example, a Hungarian resident temporarily in a Romanian municipality needs to submit their vote at the embassy, while Hungarians in the same municipality who acquired citizenship without living in Hungary can vote by post. Similarly, Hungarian residents in the United States may need to travel several hundreds of kilometres to embassies and wait in long queues, while Hungarians who have moved to the United States from one of Hungary's neighbouring states without having ever lived within the current borders of Hungary are eligible for postal voting. Since 2013, the Fidesz

government has withstood the efforts of NGOs and left-wing parties to extend postal voting to absentees as well. In the case of absentee votes, it would be easy and normatively desirable to introduce postal voting. This would also remedy the unequal opportunity of non-resident voters (who can vote by post), and temporal absentee voters (who at this point need to cast their votes in person at embassies).

Annex 1

Foreign citizens residing in Hungary

Data of the foreign citizens having permit who were residing in Hungary on 1 January of the given year

source: Hungarian Central Statistical Office

Country of citizenship	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Europe total	110915	122261	130535	140827	146145	154352	164744	171916	110122	104963	101538	100501	105825	99194
Austria	780	544	1494	2225	2571	2956	3705	3926	3331	3702	3917	3990	4007	4021
Belgium	171	107	270	375	375	510	536	658	637	740	848	918	1000	1026
Denmark	85	57	146	146	140	243	192	230	219	252	277	280	285	250
United Kingdom	963	440	1451	1911	2107	2419	2427	2486	2078	2380	2639	2768	2975	3081
Finland	213	105	380	429	375	618	406	437	342	384	414	439	490	519
France	765	330	1316	1506	1481	2185	1922	2058	1886	2067	2254	2429	2615	2523
Greece	357	299	372	421	409	499	463	488	321	381	444	471	538	591
The Netherlands	415	236	666	1096	1201	1375	1734	1933	1858	2160	2395	2544	2704	2814
Ireland	71	27	173	227	231	308	359	384	394	412	444	459	496	550
Luxembourg	8	6	10	20	17	19	30	28	24	28	27	27	33	40
Germany	7393	6908	10504	15037	14436	16744	18691	20232	15834	17418	18669	18773	19403	18627
Italy	551	404	777	1020	1207	1512	1598	1773	1606	1992	2323	2670	3098	3353
Portugal	28	20	63	94	82	128	178	216	232	296	367	395	454	469
Spain	64	50	181	200	199	287	438	621	689	874	1112	1337	1597	1586
Svédország	279	181	554	687	659	859	937	1017	901	965	994	967	994	977
EU-15	12143	9714	18357	25394	25490	30662	33616	36487	30352	34051	37124	38467	40689	40427
Bulgaria	1118	1177	1140	1123	1128	1132	1210	1259	539	608	638	673	716	715
Croatia	902	837	778	813	852	914	916	953	676	674	650	831	1012	1064
Poland	2196	2178	2364	2681	2645	2776	2515	2734	1385	1631	1863	1964	2129	2061
Romania	55676	67529	66183	66951	65836	66368	72720	76878	41596	34795	30924	28641	29665	24040
Slovakia	2472	1225	3597	4276	4944	6106	6424	7297	6705	7573	8275	8744	9393	9519
EU-28	74141	82066	92202	101044	100739	108050	117353	125686	81567	79835	80817	80758	85143	79325

